

EXHIBIT A

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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE: :Case No. 21-030589
:
LTL MANAGEMENT LLC, :
:
Debtor. :

OCTOBER 31, 2021

C O N F I D E N T I A L

Remote deposition of JOHN KIM,
ESQUIRE, conducted via Zoom
videoconference, at the location of the
witness, commencing at 10:05 a.m., on the
above date, before Margaret M. Reihl, RPR,
CRR, CCR - NJ.

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1 JOHN KIM, ESQUIRE, having been duly
2 sworn as a witness, was examined and
3 testified as follows:

4 BY MR. SATTERLEY:

5 Q. Good morning, please state your
6 full name.

7 A. John K. Kim, K-I-M.

8 Q. Mr. Kim, my name is Joe Satterley,
9 you and I have met previously. Today's deposition
10 will, hopefully, only be a few hours, at least for
11 my questions. There may be some questions from
12 other folks.

13 Have you ever given a deposition
14 before?

15 A. I have not.

16 Q. You have, obviously, sat through
17 many depositions, correct?

18 A. I have.

19 Q. So you're generally familiar with
20 the deposition process, correct?

21 A. I am.

22 Q. Can we dispense with the usual
23 instructions about a deposition?

24 A. Yes, you can.

1 Q. Okay. Let me just give you one
2 piece of information. If any of my questions are
3 confusing or you don't understand them, will you
4 let me know so I can reask the question?

5 A. I will.

6 Q. And if you need to take a break for
7 any reason, you know, I will accommodate you and
8 take the break, but try not to do it right in the
9 middle of a question; is that fair?

10 A. Sure.

11 Q. So you are currently employed by
12 LTL Management, correct?

13 A. I am seconded to LTL Management. I
14 am employed by Johnson & Johnson Services, Inc.

15 Q. And when were you first employed by
16 Johnson & Johnson Services, Inc.?

17 A. It was October 12. I'm a little
18 hesitant because there are offer letters and when
19 I actually get off payroll and things that I'm
20 actually not sure of the time frame, but it's
21 around the 12th.

22 Q. And so did you formally resign your
23 position at Johnson & Johnson enterprise?

24 MR. JONES: Object to form.

1 THE WITNESS: I resigned my former
2 position as the head of product liability
3 for Johnson & Johnson and started with
4 Johnson & Johnson Services, Inc.

5 BY MR. SATTERLEY:

6 Q. So is there a letter or an e-mail
7 where you resigned from your former position?

8 A. There's no e-mail about
9 resignation. There is an offer letter and
10 acceptance where I took on a new position.

11 Q. And who conveyed that offer to you?

12 A. It was done through the HR group,
13 the -- yeah, the HR group.

14 Q. HR group for who?

15 A. I think it's an enterprise HR
16 group. I believe it's a service provided -- it's
17 a group that services all of Johnson & Johnson.

18 Q. And do you know the name of the
19 individual who conveyed that offer to you for your
20 current position with J&J Services?

21 A. I'd have to look at the letter.

22 Q. Now, J&J Services, is that a
23 subsidiary of Johnson & Johnson enterprise?

24 A. It is.

1 Q. Today in this deposition when I
2 refer to Johnson & Johnson, I'm going to refer to
3 them as Johnson & Johnson, the enterprise, and
4 when I refer to consumer, I'm going to refer to
5 them as JJCI; is that acceptable?

6 A. It's confusing because there are,
7 of course, you know -- yeah, there's JJCI,
8 there's -- sometimes I think you are going to
9 refer to old JJCI versus new JJCI. So I think,
10 you know, we can go -- you can call it what you
11 want, we'll try to get the general sense, but
12 because of the differences in names or
13 similarities in names, it might get a little
14 confusing but I'm happy to give it a shot.

15 Q. Let me know at any point if you are
16 confused as to which J&J I'm talking about, okay?

17 A. Sure. Like that last sentence you
18 just said is sort of an ambiguous statement so --
19 but I understand what your intentions are.

20 Q. Have you ever been a direct
21 employee of Johnson & Johnson Consumer?

22 A. No.

23 Q. When were you first hired to work
24 for Johnson & Johnson, the corporate enterprise?

1 A. I was hired in --

2 MR. JONES: Let me object. Joe,
3 are you referring to Johnson & Johnson,
4 the parent company, when you say that?

5 MR. SATTERLEY: Yes.

6 MR. JONES: So I think the
7 questions will go better if we say Johnson
8 & Johnson, the parent company, as opposed
9 to the enterprise, when you are referring
10 to the parent company.

11 MR. SATTERLEY: Well, other
12 depositions I've been involved with the
13 J&J folks refer to themselves as J&J
14 enterprise when referring to the parent
15 company.

16 MR. JONES: I don't want to talk
17 over anyone. I'm just trying to be as
18 precise as we can be to help the witness.

19 So, John, you can answer the
20 question but my objection has been noted.

21 THE WITNESS: So Johnson & Johnson,
22 the enterprise, when generally people will
23 say the enterprise they refer to all of
24 Johnson & Johnson and its companies. The

1 enterprise, generally, when people talk
2 about -- this is why things get confusing.

3 Most people, when they say
4 enterprise, think of it as the Johnson &
5 Johnson corporate plus J&J subsidiary, the
6 entire ball of wax is the enterprise and
7 so, you know, if you call the enterprise
8 just Johnson & Johnson the corporate
9 headquarters then, again, it gets
10 confusing.

11 So what I will say is I was hired
12 by Johnson & Johnson, the corporate
13 headquarters, in about 2000 -- I want to
14 say 2000, 2001. I've been here 20 years
15 so I think 2001.

16 BY MR. SATTERLEY:

17 Q. Okay. And when you were hired in
18 2001, what was the first position you had with
19 Johnson & Johnson, the parent company?

20 A. I was hired as a senior counsel.

21 Q. And what was your responsibilities
22 as senior counsel beginning in 2001?

23 A. In 2001 I was in the litigation
24 group so I handled generally all -- many different

1 types of litigation that affected the companies
2 that make up Johnson & Johnson.

3 Q. Give me sort of a summary of some
4 of the litigation you began to handle in 2001 when
5 you were hired as senior counsel?

6 A. Okay. So I handled Ethicon endo
7 surgery cases. I handled McNeil consumer cases,
8 primarily on the Tylenol litigation. I handled
9 latex glove, the mass tort. I handled insurance
10 coverage disputes. I also advised various
11 operating companies on legal issues, both product
12 liability and general legal issues.

13 How far forward do you want me to
14 go because as I've been here 20 years, as I --
15 during the first five years I probably handled,
16 you know, a gazillion other things. I'm not sure
17 how far forward you want me to go.

18 Q. Let's break it up this way, how
19 long did you have the title senior counsel?

20 A. Up until I think 2007 -- five years
21 after I joined I had a change of title.

22 Q. Okay. What was your next title?

23 A. The next title was assistant
24 general counsel.

1 Q. Before I get to the assistant
2 general counsel let me go back to when you were
3 senior counsel, who was your boss?

4 A. At the time my boss was Taysen Van
5 Itallie.

6 Q. And did that person remain your
7 boss until you were promoted to assistant general
8 counsel?

9 A. Yes, he did.

10 Q. In that time frame, 2001 to 2007,
11 did you have any role or responsibilities with any
12 talc litigation issues?

13 A. I may have. During that time
14 period at some point, I don't remember when, I
15 became the liaison, the litigation liaison or lead
16 of the consumer sector. So in that role I was
17 monitoring and helping others, you know, I was
18 acting as a liaison between the consumer sector
19 and any other lawyer who was doing litigation or
20 helping with litigation for the consumer sector.

21 So in that role, at some point I'm
22 sure I was made aware of whatever litigation
23 involving talc or bits of litigation that was
24 involving talc.

1 Q. That time frame, in the early
2 2000s, who within the office of general counsel
3 managed the talc litigation?

4 A. That would be John O'Shaughnessy.

5 Q. And how long did John O'Shaughnessy
6 manage the talc litigation?

7 A. He was sort of the day-to-day
8 person on talc litigation up until I want to say
9 -- I don't have a clear recollection when he
10 stopped. I want to say five years ago but that
11 could be off.

12 Q. At some point in time did you take
13 over managing the talc litigation from John
14 O'Shaughnessy?

15 A. So while John was managing the talc
16 litigation, at some point I became his boss and so
17 I -- again, when you say manage, he did the
18 day-to-day management of things but, you know, I
19 oversaw the management of talc at some point.

20 So I would say when I became the
21 head of product liability litigation I started
22 overseeing all the -- all the product liability
23 litigation reported up to me. More significant
24 litigation I had, you know, more of a hand in.

1 Q. So let's continue through your
2 career. You said in 2007 you became assistant
3 general counsel.

4 How long did you have that job
5 title?

6 A. That job title I had until I left
7 and started at LTL.

8 Q. And you mentioned a few minutes ago
9 that you took over managing all product liability
10 litigation for J&J, when did you do that?

11 A. Can I refer to my declaration
12 because I put the date in there?

13 Q. Sure. And this is your first day
14 declaration, right?

15 A. Yes. I guess it's not in there. I
16 would say I think it was like 20 -- 2015, 2016.

17 Q. I didn't hear you?

18 A. I have to go back to my records to
19 find out when I actually started that. I
20 apologize. I thought it was in my first day
21 pleading.

22 Q. Did you say 2015 or 2016?

23 A. I honestly don't recall sitting
24 here when I took that over. It was newly created.

1 Q. And who from Johnson & Johnson, the
2 parent company, gave you that position managing
3 all products liability for Johnson & Johnson, the
4 parent company?

5 A. So at the time my boss was Joseph
6 Braunreuther but it was -- in the law department,
7 in the litigation group, it was a reorganization
8 of the entire group and heads of divisions, heads
9 of practice areas were appointed, and so I was
10 appointed the head of the product liability group.

11 Q. And the reorganization of the
12 general counsel's office you described, was that
13 approved by the Johnson & Johnson Board of
14 Directors?

15 A. It was reorganization of the
16 litigation group and I do not believe that it had
17 to be approved by the Board of Directors or didn't
18 get up to that level.

19 Q. So was it the general counsel that
20 that did that reorganization of the litigation
21 department?

22 A. I'm sure the general counsel knew
23 about it or had say in it. I don't know that
24 there's an actual official approval, you know,

1 when they -- when that was done.

2 Q. And the litigation department has a
3 budget, correct?

4 A. I don't believe the litigation
5 group itself has a budget, no.

6 Q. Is there a -- I read something the
7 last year, last few years that Johnson & Johnson
8 spends \$1.9 billion on its litigation budget; is
9 that true?

10 A. Well, I think -- I'm not sure what
11 the amount is, but that would be that's the amount
12 spent on litigation, not a litigation budget, but
13 that would be an amount spent on litigation.

14 Q. And is that consistent --

15 A. I can't verify what that number was
16 or when that number would be for.

17 Q. Well, what's your understanding of
18 the amount of money Johnson & Johnson, the parent
19 company, spends on litigation each year?

20 A. I don't know that I know that
21 number. I know that I don't know that number.

22 Q. So other than being senior counsel,
23 assistant general counsel and managing products
24 liability litigation have you had any other job

1 title with Johnson & Johnson?

2 A. Not job title, no.

3 Q. Who from Johnson & Johnson made the
4 decision to create LTL Management?

5 A. That was the decision -- I'm sorry,
6 what was the question one more time?

7 Q. Sure. Who from Johnson & Johnson
8 made the decision to create LTL Management?

9 A. I have seen the decision memo, a
10 document that tells you at what level that
11 decision was made. I think it was on the business
12 side -- I would have to look at it but it was, I
13 think, the president of the operating company
14 that's the parent of JJCI.

15 So I think it would have been up to
16 the Janssen board, I believe that's it, but,
17 again, there's a document -- I would refer to the
18 decision memo document that lays out the process.

19 Q. Do you know the names of any of the
20 individuals involved in the decision to create LTL
21 Management?

22 A. Yeah, can I get that question one
23 more time.

24 Q. Sure. Do you know the names of any

1 of the individuals involved in the decision to
2 create LTL Management?

3 A. I think there are lots of people
4 that were involved in that decision, you know,
5 including people from the law department and in
6 the business, so I do know lots of names of people
7 who were involved in that decision.

8 Q. Were you involved in the decision
9 to create LTL Management?

10 A. I was involved. I did not make the
11 decision but I was involved in that decision.

12 Q. This memo that you speak of, what's
13 the date of the memo?

14 A. I would have to look at the memo to
15 see.

16 Q. Do you know the month of the memo?

17 A. I think it was around October, in
18 October that there would have been that memo. The
19 memo is, basically, just a specific memo that's
20 based on a template so there are -- decisions are
21 made by a process and so there's a process memo
22 that tells you what the process should be and the
23 memo goes through that process with this
24 transaction.

1 Q. And you said this memo is a
2 template, where did the template originate?

3 A. I think the template has been
4 around in the corporate -- in the business
5 development side of the business. So any time
6 there's a transaction actually involving creation
7 or fail of a business, there's a process that has
8 to be followed.

9 Q. So give us the names of the
10 individuals that you believe made the decision to
11 create LTL Management?

12 A. Again, I would have to look at the
13 decision memo to see who actually -- who it was
14 brought to and who made the decisions. What I can
15 do is I would defer, frankly, to the documents
16 that were signed as part of the closing of the
17 transaction and those have all the people who had
18 to sign in order to get the transaction done.

19 So the board, for example, of
20 Janssen Pharmaceutical, which is one of the
21 companies in the chain of ownership, had to sign.
22 You know, there are a number of individuals that
23 signed those documents that I would defer to.

24 Q. So I may get to some of those

1 documents later, I wasn't asking about documents.

2 I was actually asking about the
3 decision to create LTL Management. Can you give
4 me the names of any individuals that were actually
5 involved in making that decision to create that
6 entity?

7 MR. JONES: Object as asked and
8 answered. He just told you what he knew
9 about it.

10 MR. SATTERLEY: No, he didn't. He
11 went somewhere else.

12 BY MR. SATTERLEY:

13 Q. Mr. Kim, do you understand my
14 question?

15 A. I would say the people on those
16 memos are the people who decided to create the
17 entity.

18 Q. Can you give me the names of any of
19 those, as you sit here today?

20 A. I would defer to the actual
21 document.

22 Q. This decision memo you speak of, is
23 your name on the memo?

24 A. I do not believe it is, no.

1 Q. Do you have the memo with you
2 today?

3 A. I may. I am in my office. In my
4 vast files I may have it somewhere.

5 MR. SATTERLEY: Mr. Jones, has that
6 memo been produced?

7 MR. JONES: I do not believe it has
8 been. I do not believe it's been
9 requested.

10 MR. SATTERLEY: Can you e-mail that
11 to me so at a break I can print it out and
12 look it over?

13 MR. JONES: I decidedly will take a
14 look at it and discern whether it's
15 privileged and has been requested and
16 we'll let you know. If we can readily
17 access it.

18 THE WITNESS: I think was the
19 closing binder -- I'm sorry.

20 MR. JONES: The closing binder
21 documents has been produced and I think
22 he's referred to the names that you can
23 find, they have been produced.

24 THE WITNESS: It might be in the

1 closing binder.

2 MR. SATTERLEY: I want this memo he
3 is speaking of. I haven't seen it.

4 MR. JONES: At a break Mr. Kim and
5 I will look, we'll discuss and look and
6 we'll give you a determination about
7 whether, A, it can be accessed and whether
8 or not it is privileged.

9 THE WITNESS: Okay.

10 BY MR. SATTERLEY:

11 Q. You've signed two declarations, the
12 first one, the first day pleadings and then you
13 signed one last week ago Thursday, the 21st,
14 correct?

15 A. I did.

16 Q. Have you signed any additional
17 declarations in support of LTL Management and the
18 petition in the bankruptcy court?

19 A. I have not.

20 Q. Are you currently working on any
21 declarations?

22 A. I have not.

23 Q. Do you have any additional
24 information that you intend to offer next Thursday

1 or Friday at the hearing that's not included in
2 the two declarations?

3 A. I don't think I can answer that
4 question. I don't know and -- yeah, I don't know,
5 yeah, I don't know the answer to that question.

6 Q. What have you done to prepare for
7 today's deposition?

8 A. Can you go back and ask the
9 question one more time. I want to make sure I got
10 a clear question.

11 Q. My previous question was do you
12 have any additional information that you intend to
13 share with the court next Thursday or Friday that
14 relates to this bankruptcy, other than what you've
15 included in your two signed declarations?

16 A. I think it's hard to answer that
17 question. I have additional information, you
18 know, that I've -- that I've had. Whether we are
19 going to share it or not, I think that's a
20 decision that we have not made yet.

21 Q. What additional information do you
22 have that you believe is significant and important
23 with regards to the hearing scheduled next week
24 that you have not included in your two

1 declarations?

2 MR. JONES: I'm going object to the
3 extent it may call for privileged
4 communications. Mr. Kim, you are not to
5 share those, but if you have an
6 assessment, you can tell him.

7 THE WITNESS: I think we -- I think
8 it's impossible for me to answer that
9 question.

10 What I will say is I will defer to
11 the letter Mr. Jones sent about what was
12 intended to be covered at the hearing and,
13 you know, we can go through that and what
14 information I know about those topics, you
15 know, whether it's additional information
16 that's significant that I am going to
17 present, I really can't make -- I can't
18 answer that question. I don't know how to
19 answer that question.

20 BY MR. SATTERLEY:

21 Q. I might come back to that in a
22 minute.

23 What have you done to prepare for
24 today's deposition?

1 A. I had meetings with my attorneys.

2 Q. And how many meetings did you have
3 with your attorneys?

4 A. Two.

5 Q. When did those occur?

6 A. One occurred on Friday and the
7 other occurred yesterday.

8 Q. And how long were those meetings?

9 A. About two hours each, one and a
10 half to two hours each.

11 Q. And how many attorneys participated
12 in these meetings?

13 A. Six.

14 Q. Who were they?

15 A. Okay. So Mr. Jones was there,
16 Mr. Prieto was there. So people may have been
17 there for parts of either or one of those
18 meetings. Mr. Rasmussen was there. There were
19 lawyers for Johnson & Johnson that were there
20 so -- oh, and just other LTL lawyers. There were
21 Krystn Fournier was there. Kat Frazier. For J&J
22 John Shakun was there. I think that's all I can
23 remember at this point.

24 Q. So let me see if I can understand

1 that. Representing LTL it's your understanding
2 that Jones, Prieto, Rasmussen, Fournier and
3 Frazier all were representing LTL in the meetings
4 that you had over the last two days?

5 A. So representing LTL, there's also
6 joint representation, there may be joint
7 representation also for J&J also in certain of
8 those, like Krystn Fournier or Kat Frazier may
9 also have some representation of J&J.

10 Q. And are they King & Spalding?

11 A. One is King & Spalding, one is
12 Shook.

13 Q. And you mentioned some J&J
14 attorneys, you mentioned John Shakun. Who else?

15 A. In-house lawyers for J&J were
16 there.

17 Q. And who was there in-house?

18 A. Eric Haas and Andrew White.

19 Q. Was Mr. Lisman present at either
20 the meetings that you had with these attorneys?

21 A. No.

22 Q. Were any other LTL employees
23 present in any meetings that you've had with these
24 attorneys?

1 A. You are talking about the meetings
2 to prepare for this deposition, right?

3 Q. Sure, right now I am.

4 A. No.

5 Q. Was any other J&J employees
6 present?

7 A. No.

8 Q. Other than the attorneys?

9 A. No. I think I listed everyone I
10 can remember being present.

11 Q. Did you speak to any LTL employees
12 in connection with your proposed testimony
13 either -- well, let's break it down, first at the
14 first hearing last week?

15 A. I reported to LTL employees about
16 what was going on in the bankruptcy, including my
17 testimony.

18 Q. And who did you speak with with
19 regards to LTL employees?

20 A. I spoke to Rich Dickinson and Rob
21 Wuesthoff.

22 Q. And Bob Wuesthoff, where is he
23 located?

24 A. He actually was visiting the

1 offices for LTL business.

2 Q. They are in New Jersey, right?

3 A. In New Jersey, yes. So I actually
4 had lunch with them.

5 Q. Both Rich and Bob?

6 A. Yes.

7 Q. And are they -- where do they
8 reside, those two individuals?

9 A. Mr. Wuesthoff resides in Florida,
10 he has a house in New Jersey as well but he splits
11 his time between New Jersey and Florida.
12 Mr. Dickinson lives in New Jersey, I'm not sure
13 where.

14 Q. And Mr. Dickinson, before he was a
15 LTL Management employee, was he a J&J employee?

16 A. He was employed by one of the J&J
17 companies, yes.

18 Q. Which one?

19 A. I'm actually not sure. His role
20 was in the business development group. I'm not
21 sure which J&J company actually employed him.

22 Q. Bob, before he worked at LTL he
23 worked at J&J as well, correct?

24 A. He was at one of the J&J companies

1 in the supply chain organization.

2 Q. And do you know what's the formal
3 name of the J&J company he worked for?

4 A. I do not.

5 Q. Did he work for JJCI?

6 A. I don't know. He may have.

7 Q. Mr. Dickerson, did he work for
8 JJCI?

9 A. I don't believe so. I think he
10 was -- actually, I don't know but for some reason
11 I thought he may have been in the pharm sector or
12 the device sector.

13 Q. With regards to the meetings to
14 prepare yourself Friday and yesterday, who was
15 your lawyer?

16 A. My lawyer, I would say Jim Jones.

17 Q. Did you consider yourself to be
18 also represented by John Shakun?

19 A. I think we have a joint defense
20 privilege with Mr. Shakun.

21 Q. And do you consider yourself to be
22 represented by all these attorneys?

23 A. I'm either represented by or we
24 have a joint defense agreement with them.

1 Q. You mentioned the Janssen board had
2 approved the creation of LTL Management; is that
3 true?

4 A. I believe that's true. Again, if
5 you look at the closing binder, which I think is
6 produced, you'll see who had to sign off on all
7 these transactions.

8 Q. Is Janssen part of the ownership
9 chain?

10 A. I believe it is, it's one of the
11 intermediate owners from Johnson & Johnson down.

12 Q. If you could describe for me the
13 ownership chain from Johnson & Johnson, the
14 parent, down to LTL?

15 A. So I would defer to -- there is a
16 chart that's in my first day declaration that
17 shows that. Can I refer to that?

18 Q. Let's try it off the top of your
19 head first and if you can't -- can you off the top
20 of your head?

21 A. I think I would miss -- I may miss
22 things in between. Yeah, I would defer, again, to
23 the chart that's in my declaration.

24 Q. The chart in your declaration, did

1 you create that chart or did somebody else?

2 A. Someone created it after conferring
3 with me and others about the ownership structure
4 and where to find it.

5 Q. Who created that chart?

6 A. I actually don't know who actually
7 physically created it.

8 Q. Who gave you that chart?

9 A. Well, it was sent to me as a draft,
10 you know, when I was doing -- preparing my
11 declarations and I confirmed the chart through the
12 office of the corporate secretaries and approved
13 it being included in my declaration.

14 Q. You mentioned a few minutes ago a
15 joint defense agreement. Did you sign the joint
16 defense agreement?

17 A. I think I did sign a joint defense
18 agreement.

19 Q. And when was that signed?

20 A. At or around the time when LTL was
21 formed and I became its chief legal officer.

22 Q. So who all signed this joint
23 defense agreement?

24 A. I'd have to look at the agreement

1 to refresh myself on the signatories.

2 Q. What are the entities included on
3 this joint defense agreement?

4 A. Again, I would have to defer. I
5 know it's at least Johnson & Johnson and LTL,
6 whether there are others that are in that or
7 whether the definition includes others, I'd have
8 to defer to the document on that.

9 Q. And did you tell me the date the
10 joint defense agreement was signed?

11 A. No. I think some time around the
12 time that LTL was formed.

13 Q. Did you review documents to prepare
14 for today's deposition?

15 A. I reviewed documents, yes.

16 Q. Describe for me the documents you
17 reviewed.

18 MR. JONES: They were all produced
19 in the litigation, Joe, and what he
20 reviewed is subject to work product
21 protection, but everything he saw in the
22 two meetings was produced in litigation.

23 MR. SATTERLEY: Mr. Jones, I
24 appreciate your commentary but that's not

1 a valid objection so please refrain from
2 making statements like that.

3 BY MR. SATTERLEY:

4 Q. Mr. Kim, did you understand my
5 question?

6 MR. JONES: Let me finish my
7 objection. It is a proper objection, it's
8 to work product, it's privileged. He is
9 not going to disclose to you the documents
10 he reviewed to prepare. They were
11 presented to him as a part of my
12 selection. I am counsel for purposes of
13 the deposition and counsel for the debtor.
14 So it's a proper objection, I've made it.
15 He told you he reviewed documents. I've
16 shared with you they have all been
17 produced.

18 If you want to ask him, when you
19 show him a document, whether he has seen
20 it before, you may, but he is not going to
21 tell you our selection.

22 BY MR. SATTERLEY:

23 Q. Mr. Kim, I'm not asking you legal
24 advice from Mr. Jones. I'm asking you what

1 documents you reviewed.

2 Would you tell me what documents
3 you reviewed yesterday?

4 A. I'm going to follow the advice of
5 my counsel and not answer on privileged grounds.

6 Q. Johnson & Johnson did not file for
7 bankruptcy, correct?

8 A. You're talking about the parent
9 company did not?

10 Q. Yes.

11 A. That's correct.

12 Q. And the reason why Johnson &
13 Johnson didn't file for bankruptcy is because they
14 have -- they're very, very wealthy, correct?

15 MR. JONES: Object to foundation.

16 MR. SATTERLEY: What's that?

17 MR. JONES: I said I object to the
18 foundation for the question.

19 BY MR. SATTERLEY:

20 Q. Did you hear my question, sir?

21 A. I heard your question. I would say
22 I disagree with that.

23 Q. You disagree that Johnson &
24 Johnson, the parent company, is very wealthy?

1 A. I disagree that that's the reason
2 why they didn't file. I thought that's the
3 question.

4 Q. What's the reason why Johnson &
5 Johnson didn't declare bankruptcy?

6 MR. JONES: Objection.

7 THE WITNESS: I would say that it
8 was unnecessary for the purpose that we
9 were seeking to create LTL in the first
10 place so it was -- I would say it was
11 unnecessary for that purpose.

12 BY MR. SATTERLEY:

13 Q. You would agree that if J&J
14 declared bankruptcy, it would affect its credit
15 rating, correct?

16 A. That's a hypothetical question I'm
17 not going to answer.

18 Q. You don't know whether or not it
19 would affect a credit rating?

20 A. I think it's hypothetical.

21 Q. If Johnson & Johnson declared
22 bankruptcy it would affect their reputation, you
23 would agree with that?

24 A. I don't know that to be true.

1 Again, that's speculation.

2 Q. You would agree that Johnson &
3 Johnson's assets far exceed any liabilities it
4 has, correct?

5 A. Again, not knowing every liability
6 that Johnson & Johnson has, I would agree that
7 generally it has more assets than liabilities,
8 yes.

9 Q. I mean, it far exceeds any
10 liability, you know that, right?

11 A. Again, I'm not sure what all the
12 liabilities are and how -- seems to me like an
13 accounting question that I'm not sure that I
14 understand.

15 In a layperson's view I would say
16 that Johnson & Johnson has more assets than
17 liabilities.

18 Q. And I appreciate your point there.
19 We deposed Mr. Lisman yesterday, he is the
20 accounting person put up.

21 You don't have any specialized
22 knowledge on the accounting side of the Johnson &
23 Johnson entities, correct?

24 A. I'm not sure what specialized

1 knowledge is. I do have some knowledge of the
2 accounting at Johnson & Johnson and, you know, I
3 have seen the records and accounts from time to
4 time.

5 Q. I've seen records, some of the
6 records also and I guess my question to you, are
7 you intending to come to court Thursday and Friday
8 and speak as an expert on accounting matters?

9 A. I am not an expert on accounting
10 matters. I may know things about how Johnson &
11 Johnson keeps its books.

12 Q. Now, in preparation for the
13 deposition did you review any documents to refresh
14 your recollection about anything?

15 A. No.

16 Q. None of the documents you looked at
17 yesterday or Friday was done -- was for -- so they
18 could refresh your recollection for anything?

19 A. I don't think it was, no.

20 Q. Because it seemed to me earlier
21 when you said you have to refer to documents that
22 you don't have in your memory the details of every
23 document, true?

24 A. I don't have details of every

1 document.

2 Q. And so you have to review documents
3 from time to time to refresh your memory, right?

4 A. I want to review documents to make
5 sure that I'm correct in what I remember.

6 Q. And so in that regard you are
7 reviewing documents to make sure you are correct
8 to refresh your recollection, correct?

9 A. I wouldn't say it was refreshing my
10 recollection. I would say that I just want to
11 make sure -- I have a recollection of things, I
12 want to make sure that it's correct before I say
13 them.

14 Q. Well, you reviewed all the
15 documents, you haven't seen any documents that
16 demonstrate that there's talc liabilities on the
17 Johnson & Johnson books in 1978, correct?

18 MR. JONES: Object to the form of
19 the question. I don't know what you mean
20 by all the records.

21 BY MR. SATTERLEY:

22 Q. Any document -- all the documents
23 you looked at. Do you understand my question,
24 sir?

1 A. I don't think I do understand your
2 question. Can you repeat it.

3 Q. Sure. There were no talc
4 liabilities in any documents listed in J&J books
5 as of 1978, correct?

6 MR. JONES: Object to the form,
7 foundation.

8 THE WITNESS: I don't know that
9 that's true.

10 BY MR. SATTERLEY:

11 Q. Have you seen any documents to
12 indicate there's talc liabilities on the books and
13 records of Johnson & Johnson in 1978?

14 A. I've seen the agreement that says
15 that basically the, you know, there's an
16 assumption -- all liabilities of the company, of
17 J&J related to talc, and I do know that there was
18 talc business going on. And so, you know, I think
19 that document says that any talc liabilities that
20 were there were transferred over so, you know ...

21 MR. SATTERLEY: Move to strike as
22 nonresponsive.

23 BY MR. SATTERLEY:

24 Q. Sir, you understand you are under

1 oath, correct?

2 A. I do.

3 Q. And you're saying there's a 1978 or
4 1979 document that talks about talc liabilities?

5 A. What I'm saying talks about all
6 liabilities related to all businesses and I do
7 know that there were businesses involving talc
8 prior to that and so, by necessity, that document
9 shows that all talc liabilities were assumed.

10 Q. And that document you're referring
11 to, is that the document called the Agreement For
12 Transfer of Assets and Bill of Sale?

13 A. Among others.

14 Q. And this document was located after
15 the hearing, correct?

16 A. It was.

17 Q. Who located the document?

18 A. One of our -- not sure what her
19 actual title is. She works in the records group.
20 Her name is Susan and I'm going to butcher her
21 last name.

22 Q. She's identified in our witness
23 disclosure?

24 A. Yeah.

1 MR. JONES: Her name is
2 Schreiger-Ward, I believe.

3 MR. SATTERLEY: Mr. Jones, you
4 don't need to testify for the witness. If
5 he doesn't remember the name, he can say
6 he doesn't remember the name. Please stop
7 interrupting to help out the witness. If
8 he doesn't have a recollection of
9 something, he can tell me.

10 MR. JONES: No, he did tell you --
11 let me finish, Mr. Kim.

12 He did tell you he didn't remember.
13 I was trying to just help you to speed
14 things along. I apologize, I will stop.

15 MR. SATTERLEY: Please stop because
16 you are not under oath and if you want me
17 to put you under oath and question you
18 later, I will, but I want to get testimony
19 from Mr. Kim, okay.

20 MR. JONES: Joe, you are doing what
21 you are doing, you don't need to be smart
22 about it.

23 MR. SATTERLEY: I'm not being
24 smart. I want to do what we're supposed

1 to do so please stop making statements.

2 MR. JONES: Let me finish, Joe.

3 MR. SATTERLEY: All you're doing is
4 prolonging the deposition and trying to
5 throw me off, so please stop.

6 MR. JONES: I honestly was trying
7 to be polite to you. I ask for the same
8 reciprocally. Now please proceed.

9 BY MR. SATTERLEY:

10 Q. My question to you, sir, was who
11 located the document?

12 A. It was a woman in our records group
13 and, again, I'm going to butcher her name, Susan
14 Schreiger, I just, you know, can't.

15 Q. I take it you have no knowledge of
16 how she located the document, you have no personal
17 knowledge of that?

18 A. I had spoken to her about it.

19 Q. Okay. And --

20 A. I've spoken to her about it and I
21 was part of the process to find it.

22 Q. Okay. So describe for me the
23 process that you found this document.

24 A. Well, I did not find it but Susan

1 found it. So we started looking for the document
2 over the weekend and we had previously looked for
3 this document. My instruction was forget about
4 what we did in the past, start from scratch, look
5 for everything that you can related to the
6 document. We enlisted the help of our records
7 manager, Suzanne Kovacs. Susan reports to
8 Suzanne.

9 Suzanne -- in addition to looking
10 at the materials that the corporate secretary
11 keeps, they did a search of the computer systems
12 that we have and so -- I mean, I don't know how
13 much detail you want me to get into,
14 Mr. Satterley, but let me know when you want me to
15 stop.

16 We, basically, have two computer
17 systems that are now sort of the documents of
18 record for the company. One is Memotech, one is
19 iManage. Susan looked in the Memotech system on
20 Sunday and doing a search based on date found the
21 document -- in fact, they found many documents,
22 one of the documents that she came across was
23 misidentified in the system as relating to Johnson
24 & Johnson Canada. Despite that, she looked at the

1 document and it turned out to be the document that
2 we were looking for.

3 Q. And the document you're looking for
4 is described as Agreement For Transfer of Assets
5 and Bill of Sale that is signed December the 1st,
6 1978, correct?

7 A. I don't have it in front of me so I
8 believe that's the document that we were looking
9 for.

10 Q. This has got LTL0000557 through
11 564.

12 Is this the document you were
13 referring to?

14 A. Yes.

15 Q. Okay. And this was signed December
16 the 1st, 1978 by these people here, right?

17 A. Yes, it looks like it's signed by
18 those people.

19 Q. Do you know who any of these people
20 are?

21 A. I do not.

22 Q. I was trying to make out their
23 handwriting to figure out the actual names of
24 these people.

1 Do you know the actual names of any
2 of these people?

3 A. I'm sure we can look it up.

4 Q. No, my question was do you know? I
5 didn't ask whether you could look it up. I asked
6 do you know the names of any of these people?

7 A. I think Richard Steitz, the
8 president, that's there.

9 Q. You think right here the president
10 of Johnson & Johnson Baby, that's Richard Steitz?

11 A. I'm sorry, I didn't see that. I'm
12 not sure.

13 Q. You had not had any discussions
14 with any of these people that signed this 1978
15 document, correct?

16 A. Oh, no.

17 Q. I'm going to mark this as Exhibit 1
18 to your deposition, Bates number 561, 000561 there
19 is discussions about transferring liabilities and
20 obligations.

21 (Document marked for identification
22 as Kim Deposition Exhibit No. 1.)

23 BY MR. SATTERLEY:

24 Q. Do you see that?

1 A. I see it.

2 MR. JONES: Joe, do you have a copy
3 you could transmit to Mr. Kim?

4 MR. SATTERLEY: No.

5 MR. JONES: We're doing our best
6 here, we want to be accommodating, it
7 might be difficult for him to testify
8 without having the whole document before
9 him.

10 Mr. Kim, do you have this, a clean
11 copy of this document handy?

12 THE WITNESS: I don't believe I
13 have a printout of it.

14 MR. JONES: Let's do our best here
15 but if you need to see more context, you
16 need to tell Mr. Satterley. Please
17 proceed.

18 BY MR. SATTERLEY:

19 Q. This document, you said it was
20 found last Sunday; is that correct, a week ago
21 today?

22 A. Yes.

23 Q. And did you -- were you given a
24 copy of this last Sunday?

1 A. Yes, I think I was.

2 Q. And did you read the document?

3 A. I did.

4 Q. And did you read this paragraph
5 four that I've got displayed on the screen?

6 A. Yes.

7 Q. And it says right here with regards
8 to "liabilities and obligations of every kind and
9 description which are allocated on the books or
10 records".

11 Do you see that?

12 A. I see that.

13 Q. Have you seen any books and records
14 that describe talc liabilities as of December 1st,
15 1978?

16 A. We know that --

17 MR. JONES: Let me object to the
18 form. You may answer.

19 BY MR. SATTERLEY:

20 Q. This calls for a yes or no answer,
21 Mr. Kim.

22 Do you understand my question?

23 A. No.

24 MR. SATTERLEY: Court reporter, can

1 you read back my question.

2 (The court reporter read back the
3 record as follows:

4 "Q. Have you seen any books and
5 records that describe talc liabilities as
6 of December 1st, 1978?")

7 MR. JONES: Same objection.

8 THE WITNESS: I think I -- I would
9 say yes.

10 BY MR. SATTERLEY:

11 Q. And what document describes talc
12 liabilities as of December 1st, 1978 on J&J books
13 and records?

14 A. Well, the records of J&J would be,
15 I believe, all -- we know, again, in the
16 underlying litigation there are tons of records
17 involving the talc liabilities, the business, you
18 know, that the business had prior to '78. So
19 there are tons of records about the business and
20 how it was being run that have been produced and I
21 would say those are all, you know, records of --
22 you know, that show that there are liabilities
23 prior to '78 so I guess I'm not understanding you.

24 If you're suggesting that there

1 were no talc liabilities at all before '78 I would
2 say, you know, J&J was running a business back
3 then, of course there are liabilities prior to
4 '78.

5 Q. On the books or records.

6 Do you see that? I'm circling it
7 right there. On the books or records, right, what
8 book has talc liabilities described in 1978?

9 A. I would have to go back to all the
10 business documents and see where they came from.

11 Q. Can you identify for me a single
12 book, J&J book that describes talc liabilities as
13 of December 1st, 1978?

14 A. Again, I would have to go back and
15 look.

16 Q. At you sit here today, Mr. Kim, can
17 you identify for me a single document where J&J
18 has talc liabilities described in books in 1978?

19 A. Again, I don't recall as we're
20 sitting here right now.

21 Q. As you sit here today can you
22 describe a single J&J record that describes talc
23 liabilities as of December the 1st, 1978?

24 A. Again, I know that there were lots

1 of things produced about the business before '78.
2 I would have to go back and look at them. I can't
3 think of them sitting right here today but they're
4 in production.

5 Q. J&J had a 10-K filed with the
6 Securities and Exchange Commission in 1978,
7 correct?

8 A. I assume so.

9 Q. And nowhere in the 10-K filed with
10 the SEC in 1978 does J&J describe any talc
11 liabilities, correct?

12 A. Yeah, I would have to look at the
13 10-K.

14 Q. Did you look at the 10-K over the
15 last week from 1978?

16 A. I did but not for that particular
17 purpose.

18 Q. Did you identify in any 10-Ks in
19 the 1970s, J&J 10-Ks in the 1970s any description
20 of talc liabilities?

21 A. Again, I was not looking for that.

22 Q. Have you identified any description
23 of talc liabilities in any J&J document in the
24 1970s?

1 A. I have not gone through the search
2 of the production but I do know that there are
3 lots of documents produced in that era that
4 describes the business that J&J was in and those
5 certainly have liabilities attached to them.

6 Q. Can you identify for me a document
7 that describes talc liabilities, a J&J document
8 that describes talc liabilities in the books or
9 records before December the 1st, 1978?

10 A. Sitting here I don't recall any but
11 I haven't looked.

12 MR. JONES: Joe, we've been at it
13 an hour. Might be a good time for five
14 minute facilities break.

15 MR. SATTERLEY: Give me a couple
16 more minutes. Let me --

17 BY MR. SATTERLEY:

18 Q. With regard to talc liabilities --

19 A. Sorry, I would defer to the
20 financial records as well, which I have not seen
21 all the financial records. So, again, if they're
22 in the financial records, I have not seen them but
23 they may be there.

24 Q. Okay. Yesterday we talked to

1 Mr. Lisman about financial records.

2 Have you reviewed his deposition?

3 A. I have not.

4 Q. Have you spoken to him?

5 A. I have not.

6 Q. We're going to take a break in just
7 a couple minutes because your attorney asked for
8 one but let me just ask you, have you seen any
9 document, signed document or instrument that
10 specifically says JJCI will indemnify J&J for talc
11 liabilities in the 1970s?

12 A. I think the documents we produced
13 say that.

14 Q. Well, the document I just showed
15 you, Exhibit 1, doesn't say -- doesn't talk about
16 talc liabilities at all, didn't say talc at all.

17 A. No, it doesn't.

18 Q. Respectfully, we disagree, but my
19 question: Have you seen an actual document signed
20 in the 1970s that discuss talc liabilities?

21 A. Sitting here I don't recall.

22 Q. Have you seen any document in the
23 1970s that describe liabilities for personal
24 injuries caused by talc exposure?

1 A. You know, again, any documents --
2 there were lots of documents produced in the
3 underlying litigation and some of them do talk
4 about liabilities associated with talc so I
5 would -- again, I have not gone back through the
6 production to find those documents but I do know
7 that there were documents from that era that talk
8 about talc liabilities.

9 MR. SATTERLEY: Move to strike
10 portions nonresponsive.

11 BY MR. SATTERLEY:

12 Q. My question, sir, relates to
13 agreement to indemnify J&J by JJCI where they
14 specifically talk about personal injury
15 liabilities from talc prior to December 1st, 1978?

16 MR. JONES: Object to form.

17 THE WITNESS: I don't recall if I
18 saw a document that had those words in
19 them.

20 BY MR. SATTERLEY:

21 Q. Are you aware of any documents
22 prior to December 1st, 1978 where JJCI agrees to
23 indemnify J&J for mesothelioma lawsuits?

24 A. That would be included in all

1 liabilities.

2 MR. SATTERLEY: Move to strike
3 nonresponsive.

4 BY MR. SATTERLEY:

5 Q. You and I disagree about that
6 document and the court will ultimately decide but
7 my question was very specific.

8 Is there any document that you're
9 aware of that J&J -- between J&J and JJCI in the
10 1970s that discuss liabilities for mesothelioma?

11 MR. JONES: Object as asked and
12 answered.

13 THE WITNESS: I don't recall seeing
14 something with that -- those words in them
15 but, again, I have not reviewed all the
16 production documents.

17 BY MR. SATTERLEY:

18 Q. Is there any document you've seen
19 from the 1970s between J&J and JJCI or any of its
20 predecessors that discuss liabilities relating to
21 ovarian cancer?

22 A. I have not seen a document with
23 those words in them, no.

24 Q. And there was no lawsuits ongoing

1 against Johnson & Johnson in the 1970s for
2 exposure to talc, true?

3 A. I don't believe there were any.

4 Q. The first lawsuit relating to
5 Johnson & Johnson and talc occurred in 1983, the
6 Gambino case, true?

7 A. I believe that's true but I would
8 defer to the production.

9 MR. SATTERLEY: Your attorney asked
10 for a break. Let's take a five-minute
11 break, okay.

12 MR. JONES: Thanks, Joe. Thank you
13 all.

14 (Brief recess taken at 11:07 a.m.)

15 (Deposition resumes at 11:20 a.m.)

16 MR. JONES: Mr. Satterley, I have
17 your e-mail of a moment ago again
18 requesting which Mr. Kim referred earlier
19 today. In any event, I think we've
20 located it. I'm going to discern whether
21 we have. We're going to review the extent
22 to which it was requested and is
23 privileged or not and I will get back to
24 you maybe at the lunch break on that but

1 we are in the process so I will update you
2 after the lunch break.

3 MR. SATTERLEY: Are we ready to
4 continue? The witness is ready to go.

5 THE WITNESS: Sure, yes.

6 BY MR. SATTERLEY:

7 Q. The first mesothelioma case against
8 Johnson & Johnson was the Darlene Coker case in
9 1997, correct?

10 A. I actually don't know if that's the
11 first. I do know the case, I don't know where it
12 fits in the timeline.

13 Q. Are you aware of the name of any
14 other mesothelioma case that existed against
15 Johnson & Johnson prior to the Coker case?

16 A. Sitting here I don't. I don't have
17 the chronology.

18 Q. Are you aware of the name of the
19 first ovarian cancer case alleging talc caused --
20 Johnson & Johnson talc caused ovarian cancer?

21 A. The first case I recall is Berg but
22 I don't recall whether that was the first or not.
23 That's the first I recall.

24 Q. The Deane Berg case that was, what

1 year was that filed?

2 A. I don't know the filing year.

3 Q. It was in the 2000s, correct?

4 A. Yes.

5 Q. And did you participate in the Berg
6 case at all?

7 A. I was aware of the case and was
8 monitoring it as it was being tried.

9 Q. And when you say "monitoring" were
10 you actually physically at the courthouse?

11 A. No. Someone who reported to me was
12 at the courthouse.

13 Q. And who was that?

14 A. Denise Houghton.

15 Q. You've been at several of my
16 trials.

17 When did you start monitoring
18 trials by actually physically going to the
19 courthouse?

20 A. I believe the first trial I
21 attended was the trial after the Fox trial. I did
22 not attend the Fox trial, which was the first
23 trial in St. Louis, but the next trial, and I
24 can't recall, it may have been Gina Keeney, I just

1 can't recall the name of the second trial that was
2 tried in Saint Louis, but I did attend that trial.

3 Q. Gloria Ristesund?

4 A. Could have been Ristesund, yes.

5 Again, I don't know the -- I attended both -- Gina
6 Keeney -- actually I attended virtually every
7 trial in St. Louis. I can't remember the name of
8 the first one. It could have been Ristesund.

9 Q. Did you -- after that 2016, that
10 first trial that you attended, did you attend all
11 the various talc trials?

12 A. I attended a fair number of talc
13 trials. I don't think it was all of them but it
14 was most of them; if not live, by CVN, Courtroom
15 View Network, or reading transcripts.

16 Q. And so you have seen that attorneys
17 for these various plaintiffs that allege they have
18 cancer, whether it be mesothelioma or ovarian
19 cancer, you've seen them give opening statements,
20 you've seen them give closing arguments, you've
21 seen the arguments they make, correct?

22 A. I have.

23 Q. And you've been there when I have
24 made closing argument, correct?

1 A. I have.

2 Q. And you have seen in each of the
3 trials that I separate out Johnson & Johnson from
4 Johnson & Johnson Consumer and explain to the jury
5 in closing arguments they're independent
6 liability, true?

7 A. Sometimes, sometimes not.

8 Q. All the time with me.

9 A. So, again, I would say you may try
10 or think you do but I know -- my understanding, my
11 experience has been that throughout the trial it
12 gets conflated all the time, similar to what
13 happens here. A blanket statement -- there's a
14 lot of overlap in the trials.

15 Q. So have you independently attempted
16 to segregate out Johnson & Johnson parent
17 company's conduct versus Johnson & Johnson
18 Consumer conduct?

19 MR. JONES: Let me object to the
20 extent it calls for privileged advice
21 and/or work product. He can, I think,
22 testify to what has happened at trials and
23 is public record.

24 BY MR. SATTERLEY:

1 Q. No, I'm not asking to give any
2 advice Mr. Jones may have given you.

3 I'm asking you independently, have
4 you sat down and segregated out the conduct of
5 Johnson & Johnson, the parent company, with
6 regards to talc and the conduct of Johnson &
7 Johnson Consumer with regard to talc?

8 MR. JONES: Same objection. You
9 can answer if you can, Mr. Kim.

10 THE WITNESS: I'm not sure I
11 understand the question about me
12 segregating out conduct between the two.
13 Yeah, I'm not sure I understand what you
14 mean by that.

15 BY MR. SATTERLEY:

16 Q. So if you don't understand what I
17 mean, is it fair to say you haven't done that, you
18 haven't sat down and said, okay, these actions
19 were done by the parent company and these actions
20 were done by the consumer division or consumer
21 subsidiary and segregate those out?

22 MR. JONES: Let me object again to
23 the extent it may call for advice or work
24 product in the defense of the underlying

1 litigation.

2 THE WITNESS: What I can say is
3 when I hear evidence I can tell, you know,
4 either the lawyer says who did what or
5 doesn't, you know, that's what I've
6 observed.

7 You know, I'm not sure, again, the
8 process of segregating out conduct, I'm
9 not sure what that process is.

10 BY MR. SATTERLEY:

11 Q. Well, you will agree that Johnson &
12 Johnson, the parent company, is based in New
13 Brunswick, correct?

14 A. It is.

15 Q. And consumer, with regard to baby
16 powder, Skillman?

17 A. At this time, yes. Well, it was at
18 times, yes.

19 Q. And so have you sat down and tried
20 to segregate out memorandums from Skillman to
21 memorandums from New Brunswick with regard to talc
22 liability?

23 MR. JONES: Same objection.

24 THE WITNESS: Again, I'm not sure

1 what that -- what that means. I've looked
2 at the evidence, I've seen the evidence,
3 you know. I would defer to the evidence
4 as to who did what when.

5 BY MR. SATTERLEY:

6 Q. You don't know what that means, to
7 segregate out the liabilities from J&J, the
8 parent, versus JJCI?

9 A. I think that calls for a legal
10 conclusion as to what actions constitute liability
11 and who would be responsible for that. So that,
12 you know, I'm not sure -- let me back up for a
13 second.

14 What you're asking -- if you're
15 asking do we have a view as to who's liable for
16 the litigation, you know, I think, you know, we
17 have from time to time done that. You know,
18 generally it's, you know, if the question is who
19 is responsible for the litigation, that would be
20 JJCI.

21 So I'm not sure, again, the
22 segregating out the liability is sort of a legal
23 process that, you know, takes into account, you
24 know, sort of a legal analysis.

1 MR. SATTERLEY: Move to strike
2 portions that are nonresponsive.

3 BY MR. SATTERLEY:

4 Q. You're a member of the New Jersey
5 bar?

6 A. I -- in a manner of speaking I'm an
7 in-house counsel bar member, so there's a special
8 membership for people who are barred in other
9 jurisdictions but act as in-house counsel in New
10 Jersey.

11 Q. I'm sorry, you lost me there.
12 Are you licensed in New Jersey as
13 an attorney?

14 A. I'm licensed as an in-house counsel
15 in New Jersey. I have my license, general license
16 to practice law from New York.

17 Q. And you understand, for example,
18 the law of the State of New Jersey, Johnson &
19 Johnson remains responsible for its actions
20 concerning the manufacture of talc, regardless of
21 the 1978 agreement that I marked as Exhibit 1,
22 true?

23 MR. JONES: That calls for a legal
24 conclusion and opinion.

1 BY MR. SATTERLEY:

2 Q. Go ahead, sir.

3 MR. JONES: You can answer if you
4 can.

5 THE WITNESS: I'm going to follow
6 counsel's advice. I think he is saying
7 it's privileged. I'm not going to answer
8 a privileged --

9 MR. SATTERLEY: No, he didn't
10 assert a privilege. He said it calls for
11 a legal conclusion. That's a different
12 objection, so you can answer the question.

13 THE WITNESS: So I think my general
14 understanding would be that even though
15 JJCI assumed all the liability, when it
16 comes to an individual claimant they can
17 still make a claim against Johnson &
18 Johnson.

19 BY MR. SATTERLEY:

20 Q. And under the law of New Jersey and
21 many other states, J&J remains responsible,
22 despite that agreement, correct?

23 MR. JONES: Object to form, calls
24 for a legal conclusion and if it calls for

1 advice, Mr. Kim, let us know.

2 THE WITNESS: Yeah, again, I
3 would -- I don't want to give legal
4 advice. My understanding would be that,
5 again, you know, even though JJCI assumed
6 all the liability related to talc, that
7 plaintiffs can still sue Johnson & Johnson
8 if their -- if it did things that were --
9 made it liable to the claimant.

10 BY MR. SATTERLEY:

11 Q. You will agree it's J&J's position
12 that none of the thousands of cases against it
13 have any factual or legal merit, correct?

14 A. I would agree with that.

15 Q. And that's because it's J&J's
16 position that talc does not and never has
17 contained asbestos, true?

18 A. I believe the science supports
19 that, yes.

20 Q. And it's J&J's position and your
21 position that there's no credible evidence that
22 talc causes disease, true?

23 A. I would modify that. So there are
24 certain talc-related diseases that have been

1 reported, talcosis, for example. There are -- as
2 with any particulate that someone inhales there is
3 a risk of harm there so I would not say that talc
4 doesn't -- can't cause any disease, it just
5 doesn't cause mesothelioma or ovarian cancer, I
6 can say that for sure.

7 Q. So it's your position and Johnson &
8 Johnson's position that there's no credible
9 evidence that talc causes cancer?

10 A. Again, I prefer to limit it to
11 mesothelioma and ovarian cancer. I don't think it
12 causes any cancer but I haven't looked at that
13 issue. I would say certainly with respect to
14 mesothelioma and ovarian cancer, talc does not
15 cause it. I do not believe it causes any cancer.

16 Q. And, obviously, you are not a
17 medical doctor, you have no medical training,
18 true?

19 A. That is true.

20 Q. Did you on Sunday, last Sunday,
21 when you read this Exhibit 1, the Agreement For
22 Transfer Of Assets and Bill of Sale, did you ask
23 for anyone to search for additional documents
24 relating to books or records?

1 A. I think generally you asked --

2 MR. JONES: I'm going to object to
3 the extent it may call for work product or
4 advice of counsel but I think he has
5 answered we looked for the document as
6 part of the document request search.

7 BY MR. SATTERLEY:

8 Q. My question was directed to
9 Mr. Kim. Did you direct anyone, sir, to look for
10 books or records after you read Exhibit 1?

11 A. I don't recall saying specifically
12 books or records. We are doing document searches,
13 again redoing what we had done previously, for any
14 documents related to this topic.

15 Q. Did you speak to anyone last Sunday
16 or thereafter employed by Johnson & Johnson
17 wherein you requested a search for books or
18 records?

19 A. I have been working with employees
20 of Johnson & Johnson on searches generally. So,
21 again, I don't recall saying books or records but
22 we're looking for any documents related to this
23 topic.

24 Q. Who have you spoken to at Johnson &

1 Johnson to direct searches for records since last
2 Sunday, when you found Exhibit 1?

3 A. I've been working with the legal
4 team at Johnson & Johnson. I've discussed this
5 with our records manager and office manager,
6 Suzanne Kovacs, who the records people report to.
7 I've spoken to Susan, as I mentioned, her
8 colleague, Ellen Butyl -- again, I'm butchering
9 these last names, I apologize.

10 I've spoken to Laura Jaracino who
11 is the -- manages all the -- she's at the
12 corporate secretary's office and manages the books
13 of the corporate secretary's office.

14 Q. Anyone else?

15 A. I spoke to Adam Lisman about
16 financial records.

17 Q. When did you speak with Adam
18 Lisman?

19 A. Last week.

20 Q. Did you ask him to provide you
21 books and records from the 1970s?

22 MR. JONES: I'm going to object to
23 the question as calling for work product
24 and/or privileged communication. He has

1 told you the name of the person he spoke
2 to and he has told what you the topic was.
3 I don't think you are entitled to more
4 than that.

5 MR. SATTERLEY: I disagree. Are
6 you directing him not to answer what he
7 asked Mr. Lisman for?

8 MR. JONES: Mr. Kim, you can tell
9 him generally the topic of conversation
10 but I caution you not to share anything
11 more privileged or work product.

12 MR. SATTERLEY: I don't want to
13 muddy the water here. I asked a specific
14 question, let me ask it again.

15 BY MR. SATTERLEY:

16 Q. Did you ask Mr. Lisman for books
17 and records from the 1970s in your conversation
18 with him?

19 A. I don't believe I used the word
20 books and records, I think I used the word
21 documents. We were looking for documents related
22 to the talc liability. And, in fact, now going
23 down that line, I also spoke to a few members of
24 the finance group whose names are escaping me

1 right now, also to look for entries about the talc
2 liability and responsibility for the talc
3 liability.

4 Q. And you don't recall the
5 individuals' names?

6 A. I have them somewhere but I don't
7 recall their names right now.

8 Q. Did you ask anyone since last
9 Sunday to provide you books or records from 1978
10 and beforehand?

11 MR. JONES: Object as asked and
12 answered.

13 THE WITNESS: So I asked for
14 documents. I don't recall if I used the
15 words books or records. We speak in terms
16 of documents.

17 BY MR. SATTERLEY:

18 Q. And I appreciate the distinction.
19 I'm using the term books or records, you are using
20 the term documents.

21 If I understand you correctly, you
22 never directly asked someone search for books or
23 records as referenced in Exhibit 1?

24 A. No, I did not reference that

1 Exhibit 1 and tell them books and records, no. I
2 asked for -- we were searching for documents.

3 Q. Did you ask anyone in finance or
4 accounting what books or records means?

5 A. No.

6 Q. Do you know what it means when it
7 says allocated on books or records?

8 A. I have my understanding of that. I
9 don't know what, you know -- I have my
10 understanding of it. I don't know if there's a
11 technical definition of this.

12 Q. I'm sorry, I didn't mean to cut you
13 off.

14 Did you ask anyone in accounting or
15 finance what does it mean when it says allocated
16 on the books or records?

17 A. I don't believe I asked anyone from
18 finance or accounting, no.

19 Q. You mentioned you spoke with an
20 assistant to the corporate secretary. Do you know
21 that person's name?

22 A. Laura Jancino.

23 Q. And who is the corporate secretary?

24 A. Oh my God, right now, I'm

1 embarrassed, I forgot his name. He sits right
2 down the hall from me and I've known him for years
3 and it's just -- I apologize. I could look that
4 up for you though. I can get that at a break.

5 Q. So as you sit here today you can't
6 tell me the name of the corporate secretary for
7 Johnson & Johnson, the parent?

8 A. I'm just blanking right now. I
9 apologize. I must be tired.

10 Q. Who is Tina French?

11 A. Tina French was an assistant
12 corporate secretary. Matt Orlando, there, got it.
13 Matt Orlando is the corporate secretary. Tina
14 French was an assistant corporate secretary at one
15 time.

16 Q. And did you participate in any of
17 the depositions she gave in talc cases?

18 A. I may have participated -- I may
19 have spoken to her about it at one point or
20 another but I was not at the deposition and I
21 actually have not read her deposition.

22 Q. Do you understand she had the
23 authority to speak and bind Johnson & Johnson at
24 these talc depositions, correct?

1 A. I don't know in what capacity she
2 was deposed.

3 Q. As the assistant secretary of the
4 corporation she had the authority to speak for the
5 board when she testified; did she not?

6 A. I'm not sure that's within the
7 scope of her authority, no.

8 Q. She had authority to bind the
9 company when she spoke and testified as a witness
10 in talc litigation, correct?

11 MR. JONES: That's a legal
12 conclusion. Object to the legal
13 conclusion. If you give me a beat,
14 Mr. Kim, it will help. Thanks.

15 THE WITNESS: I don't know in what
16 capacity she was -- she gave her
17 deposition. As any employee, she can only
18 give -- bind the corporation with, you
19 know, with whatever authority she has.
20 I'm not sure what authority she had to
21 bind the corporation with her deposition.

22 BY MR. SATTERLEY:

23 Q. You know what a 30(b)(6) witness
24 is, correct?

1 A. I do.

2 Q. And a 30(b)(6) witness is a witness
3 designated by the corporation to speak for the
4 corporation on topics, correct?

5 A. Yes.

6 Q. And you know that Ms. French was a
7 30(b)(6) witness for J&J with regards to talc
8 issues, correct?

9 A. I don't know that.

10 Q. And you're telling me you've never
11 read any of her depositions?

12 A. I have not.

13 Q. You understand that a 30(b)(6)
14 deposition, that there's been several of them that
15 Johnson & Johnson has authorized to speak for
16 them, correct?

17 A. I do.

18 Q. And Johnson & Johnson, the parent
19 company, has authorized John Hopkins to serve as a
20 witness to speak for Johnson & Johnson, the parent
21 company, true?

22 A. I believe that's true for certain
23 depositions.

24 Q. And in addition to a 30(b)(6)

1 deposition, in certain states there's deposition
2 called the person most qualified for the
3 corporation, correct?

4 A. I have heard that term, yes.

5 Q. And John Hopkins has been
6 designated as the person most qualified for
7 Johnson & Johnson, the parent company, on numerous
8 occasions, correct?

9 A. I believe that's true.

10 Q. And you understand that Johnson &
11 Johnson and Johnson & Johnson Consumer can
12 designate an individual to be the person most
13 qualified or to be the 30(b)(6) deposition for its
14 independent actions, correct?

15 MR. JONES: Object to form.

16 THE WITNESS: I'm not sure what
17 that means, "its independent actions."

18 BY MR. SATTERLEY:

19 Q. Well, J&J and JJCI are two distinct
20 entities, correct?

21 A. They are.

22 Q. Okay. And under the law when a
23 30(b)(6) deposition notice comes in to J&J, J&J
24 gets to select the witness to speak on those

1 topics, correct?

2 A. I think ordinarily, yes.

3 Q. And, likewise, when a 30(b)(6)
4 deposition notice comes in for JJCI, JJCI gets to
5 select who speaks for them, correct?

6 A. I believe that's true, yes.

7 Q. And in the trials that you've
8 attended, you have seen depositions played of
9 30(b)(6) witnesses for the jury to consider, true?

10 A. I have.

11 Q. You have seen judges instruct the
12 jury with regard to those depositions and what
13 those depositions mean, right?

14 A. I may have. I just don't recall
15 specifically.

16 Q. Do you recall judges telling juries
17 that this individual that you're going to see on
18 videotape is speaking for J&J, the parent?

19 A. I think most of the time they speak
20 for both.

21 Q. And you understand with regards
22 to -- well, let me explore that.

23 There's cases that Johnson &
24 Johnson is a defendant where JJCI is not a

1 defendant, true?

2 A. I think that's pretty rare. There
3 may be but that's generally not the general
4 circumstance.

5 Q. Well, I tried a case in Kentucky,
6 the Hayes case, Donna Hayes, and there was only
7 one Johnson & Johnson defendant, that was Johnson
8 & Johnson, the parent company.

9 Do you remember that?

10 A. I do remember that.

11 Q. And in that situation we tried it
12 all the way to verdict, you guys won that one,
13 it's up in the Kentucky Supreme Court now, but
14 Johnson & Johnson, the parent company, was the
15 only entity in that case, correct?

16 A. I believe that's true. I would
17 have to go back to see how that happened because
18 that is an unusual circumstance. It's rare that
19 only Johnson & Johnson is a defendant.

20 Q. In that case I deposed Johnson &
21 Johnson's corporate representative, John Hopkins,
22 and he was there to -- he spoke on behalf of
23 Johnson & Johnson regarding talc issues, correct?

24 A. He spoke, again, I would have to

1 review the deposition to see how much it was
2 limited just to Johnson & Johnson, but I do know
3 he was a part of that case, yes.

4 Q. Now, these 30(b)(6) depositions,
5 these person most qualified, those witnesses, they
6 have the opportunity to review and sign the
7 deposition, true?

8 A. I think it --

9 Q. They can make changes to the
10 deposition, right?

11 A. I think it depends on the
12 stipulations that are entered into.

13 Q. Like at the beginning of this
14 deposition, I think your attorney said you are
15 going to read and sign the deposition, right?

16 A. That's what -- people agree to that
17 but sometimes it just doesn't happen.

18 Q. But you understand the process that
19 after a deposition concludes, the corporate
20 representative can read and make changes and sign
21 off on those changes, correct?

22 A. I know that's a lot of processes
23 call for that, allow for that.

24 Q. Let me ask you some other questions

1 here. You don't consider --

2 A. I'm sorry, Mr. Satterley, you just
3 went on mute.

4 Q. Sorry about that. Must have hit a
5 button there.

6 You don't consider yourself to be
7 an expert of law on products liability in all 50
8 states, do you?

9 A. I'm trying to think whether I've
10 had cases in all 50 states. I think it's close to
11 all 50 states.

12 Q. And you know what the law is, for
13 example, in California on a defective product
14 being sold through the chain of distribution?

15 A. I'm sorry, are you asking me if I'm
16 familiar with that concept?

17 Q. Sure, sure.

18 A. I am familiar with the concept. I
19 have to look at, again, sort of the legal research
20 on that for a definitive answer.

21 Q. And you will agree that under laws
22 of most states the independent actions of
23 retailers, those retailers are liable for any
24 injuries that occur from any products, true?

1 MR. JONES: Object to form.

2 THE WITNESS: I think it depends on
3 what independent actions means, you know.
4 So, for example, if a retailer adulterates
5 product, then they would be liable for
6 that adulteration.

7 A pass-through retailer that just
8 takes a product and sells it as is
9 generally would not be liable or at least
10 have indemnification rights on the
11 manufacture for that.

12 So, again, I don't know what
13 independent -- you know, the fact that
14 someone sells a product, if you call that
15 independent, I would say no, that
16 generally does not result in liability.

17 BY MR. SATTERLEY:

18 Q. Really. You specialize in products
19 liability and you think that selling a product, a
20 retailer has no liability?

21 A. I didn't say that. I said --
22 again, I'm questioning the -- or I'm -- I don't
23 understand when you say independent liability,
24 what independent means in that situation.

1 Q. So you know under strict products
2 liability that a retailer is independently liable
3 for a defective product that injures someone, you
4 know that?

5 MR. JONES: Object as asked and
6 answered.

7 THE WITNESS: Again, I'm not sure
8 what independence means in that situation.

9 BY MR. SATTERLEY:

10 Q. So you don't know what independent
11 liability is?

12 A. Yeah, I think if you could define
13 what you consider independent liability versus
14 dependent liability versus vicarious liability
15 versus, you know, joint and several liability. I
16 think independent liability is ambiguous.

17 Q. So do you know what independent
18 liability means?

19 A. Again, not the way you are using
20 it.

21 Q. Under state law who bears the risk
22 of insolvency of a product manufacturer?

23 MR. JONES: Object to form and
24 foundation.

1 THE WITNESS: I would have to look
2 state by state I guess on that to see if
3 there were any distinctions.

4 BY MR. SATTERLEY:

5 Q. If a product manufacturer files for
6 bankruptcy, the retailer of the defective product
7 can still be held liable, true?

8 MR. JONES: Object to form and
9 foundation.

10 THE WITNESS: Again, I think it's
11 going to depend on circumstances and I
12 think a blanket statement -- I can't
13 answer true or false to that.

14 BY MR. SATTERLEY:

15 Q. At the hearing on the 22nd I asked
16 you questions about in the event that a retailer
17 is found to be liable and they had a claim against
18 old JJCI through these indemnification agreements,
19 I asked you whether it's your understanding they
20 would just be an unsecured creditor, just like
21 some of my mesothelioma clients, do you recall
22 that question?

23 A. I do.

24 Q. And have you had time to think

1 about that?

2 A. I have not.

3 Q. Do you know the answer to that?

4 A. I'm sorry, one more time.

5 Q. Sure. A retailer that's found
6 responsible for Johnson's Baby Powder, assume a
7 jury finds a retailer responsible, and that
8 retailer wanted to make a claim for
9 indemnification against the old JJCI, that claim
10 would be an unsecured claim in bankruptcy, true?

11 MR. JONES: Object to foundation.

12 THE WITNESS: I think you have to
13 look at the situation and the agreements
14 that were entered into between the
15 retailer and the manufacturer to know
16 whether there's security interests or not.
17 I don't think I can answer that question
18 without knowing more details.

19 BY MR. SATTERLEY:

20 Q. The letters that were written by
21 Shook Hardy & Bacon to these various retailers,
22 who authorized those letters to be written?

23 A. I think it depends on the time
24 frame. Generally, I have reviewed I think most of

1 that, most of those but, again, I think it
2 would -- it would depend on the time frame as to
3 who made the determination for each one, who
4 basically gave the authorization.

5 I mean, they're all generally
6 authorized by me but, you know, again, there are
7 people who report to me that may have had
8 day-to-day dealings on those agreements.

9 Q. Do any of those letters written by
10 Shook Hardy & Bacon to these retailers, do they
11 contain any security that would make the retailer
12 anything other than a unsecured creditor?

13 A. I'm not sure that the letters would
14 do that. Yeah, I just don't know what the
15 underlying agreements were with these.

16 Q. Is there any other agreements that
17 you're aware of between the old JJCI and any
18 retailers that provide any security that would
19 make the retailer anything other than an unsecured
20 creditor?

21 A. I don't know that. I think we have
22 produced whatever we can find in the short period
23 of time that we had and I don't know whether there
24 are other agreements out there. I would defer to

1 the actual agreements.

2 Q. And I've looked at the actual
3 agreements and you said you, I think, authorized
4 those letters to go out, right?

5 A. The letters, I've authorized
6 generally that we would be idemnifying retailers.

7 Q. And you've seen those letters,
8 you've read them, right?

9 A. I reviewed I think most of them,
10 yes.

11 Q. And nowhere in those letters from
12 Shook Hardy & Bacon to the retailers does it
13 provide any extra security that would make a
14 retailer anything other than a unsecured creditor,
15 correct?

16 A. Again, I would have to -- I would
17 defer to the letters. I don't recall.

18 Q. Okay. Let's do this then, let's
19 look at one of the letters. This is Shook Hardy
20 Bacon, it going to be Exhibit Number 2, put a
21 little 2 at the top here. This is a letter dated
22 September 16, 2021.

23 (Document marked for identification
24 as Kim Deposition Exhibit No. 2.)

1 BY MR. SATTERLEY:

2 Q. This is September 16th, 2021,
3 right?

4 A. That's what it says there.

5 Q. And by this point in time you and
6 and other individuals were actively working on the
7 creation of LTL, right?

8 A. I think we're -- at that stage we
9 were looking at many options and doing due
10 diligence on whether it was a possible option that
11 we could do.

12 Q. Because you said at the hearing on
13 the 22nd that you've been working on the Texas
14 Two-Step bankruptcy for about six months, right?

15 MR. JONES: Object to the
16 characterization of his testimony. I do
17 not think he used those words.

18 THE WITNESS: What I would say is
19 we were doing -- reviewing options,
20 including a divisional merger for about
21 six months, looking at whether it was
22 feasible and whether it's something that
23 we would do. So, you know, no decisions
24 have been made at that time and we were

1 just reviewing the process and
2 feasibility.

3 BY MR. SATTERLEY:

4 Q. I thought I heard your testimony
5 that you had been reviewing options for about two
6 years but you were actively working on it for the
7 last six months; is that not accurate?

8 A. No, I think what I was trying to
9 say was that from time to time for two years this
10 issue of divisional mergers came up, but we
11 started actively reviewing that option
12 specifically as to feasibility and, you know, and
13 appropriateness starting about six months ago, we
14 started focusing on that.

15 Q. So for six months prior to the
16 October 12 filing; is that fair?

17 A. That's fair.

18 Q. So that puts us back in what,
19 March, April?

20 A. Maybe April.

21 Q. And what do you -- and I'm going to
22 come back to this letter in a minute, but what do
23 you recall the first steps that you did in
24 reviewing the options back in April?

1 A. I think we had a presentation by
2 counsel explaining how it would work.

3 Q. And which counsel was that?

4 A. That was Jones Day.

5 Q. At that point in time was Jones Day
6 already hired or was that a presentation to think
7 about hiring Jones Day?

8 MR. JONES: Object to form and
9 foundation.

10 THE WITNESS: Yeah, I would have to
11 go back, I believe it was a presentation
12 to think about hiring Jones Day.

13 BY MR. SATTERLEY:

14 Q. And eventually did Johnson &
15 Johnson hire Jones Day?

16 A. Eventually it did, yes.

17 Q. And when did that occur?

18 A. I'd have to go back and see.

19 Q. Was it immediately in April or did
20 it take a little bit of time in May or June or
21 July?

22 A. I would say it was fluid. We don't
23 generally use retention agreements so I'd have to
24 go back to, frankly, billing records.

1 Q. So what's your best estimate of
2 when Jones Day was actually retained to pursue
3 this divisional merger?

4 A. I think the first step would be
5 Jones Day would be retained to do -- so when we
6 first met with Jones Day they had very little
7 information about --

8 MR. JONES: Mr. Kim, let me make
9 sure you don't divulge privileged
10 information. The question is as to
11 timing.

12 THE WITNESS: Yeah, I don't recall
13 the time. The timing I'd have to -- you
14 know, I don't recall when we first
15 retained Jones Day.

16 BY MR. SATTERLEY:

17 Q. You will agree the presentation was
18 before the retention because they were presenting
19 information to you and then the retention came
20 later, correct?

21 MR. JONES: Object to foundation.
22 You may answer.

23 THE WITNESS: I would say it's very
24 fluid as to whether that was an actual

1 retention or not. I don't think we -- I
2 would have to think about that and look at
3 the records.

4 Sitting here, I actually don't
5 recall what was actually presented or done
6 early on.

7 BY MR. SATTERLEY:

8 Q. Who made the decision to hire Jones
9 Day after the presentation?

10 A. Some time at some point it was a
11 consensus reached among myself, Andrew White and
12 Eric Haas, my boss.

13 Q. Other than Andrew White, Eric Haas
14 and you, was anyone else involved in the decision
15 to hire Jones Day?

16 A. I don't believe so.

17 Q. And you say Andrew White is your
18 boss?

19 A. No, Eric Haas is my boss.

20 Q. And who is Andrew White?

21 A. Andrew reported to me.

22 Q. Okay. We may come back to that in
23 a little bit. Let's go back to this letter here.

24 This is a -- in September of this

1 year and it's addressed to Gary Crossen and this
2 is a form letter with regards to idemnification
3 and defense, right?

4 A. I'm not sure it's a form letter.
5 It's a letter.

6 Q. And you approved of this type of
7 letter to go to these retailers?

8 A. Generally, yes.

9 Q. And in this -- in all of these
10 letters it gives Johnson & Johnson the ability to
11 select a law firm that is going to represent these
12 retailers, correct?

13 A. I believe that's true for virtually
14 all of them, yes.

15 Q. And the law firm that is selected
16 by Johnson & Johnson is Barnes & Thornburg, true?

17 A. I believe that's true for -- yeah,
18 it's true here. I'm not sure if it's true for
19 everyone. I would have to go check.

20 Q. I didn't print out all the letters
21 but my reading of the letters were Barnes &
22 Thornburg was listed as the -- here's another one,
23 make this Exhibit 3, this is October of 2020.

24 A. I believe they're all virtually --

1 I don't know if there's a exception is all.

2 (Document marked for identification
3 as Kim Deposition Exhibit No. 3.)

4 BY MR. SATTERLEY:

5 Q. If we go to page 3 of this letter
6 this relates to CVS, this is Barnes & Thornburg,
7 right?

8 A. Yes.

9 Q. Okay. And Barnes & Thornburg is
10 also the law firm for Johnson & Johnson, correct?

11 A. I'm not sure what you're asking.
12 In these cases or -- not in these cases where
13 there's an indemnity retailer involved.

14 Q. Well, Barnes & Thornburg has
15 represented Johnson & Johnson in talc litigation
16 for several years, correct?

17 A. I don't know that that's true
18 actually. I don't think they represent us in the
19 actual litigation.

20 Q. Well, I tried a case to verdict
21 against Barnes & Thornburg, the Schmitz versus
22 Johnson & Johnson case.

23 Do you recall that case?

24 A. You know, sorry, I don't recall

1 that. Where was that case?

2 Q. Alameda County. I think you were
3 present as part of that trial.

4 A. Oh, Schmitz.

5 Q. Alex Calfo was there and several
6 lawyers from Barnes & Thornburg representing
7 Johnson & Johnson.

8 A. Yeah, I don't recall the Barnes &
9 Thornburg folks there. I know Alex Calfo would
10 have been there for Johnson & Johnson.

11 Q. And Barnes & Thornburg is the
12 counsel for Johnson & Johnson for national
13 negotiations for talc settlements, true?

14 A. A lawyer at Barnes and -- well,
15 let's go back for a second. Alex Calfo is not at
16 Barnes & Thornburg, let's just make that clear.
17 Alex Calfo is a King and Spalding attorney.

18 The Barnes & Thornburg, a lawyer
19 there has helped us in negotiations on talc cases,
20 yes.

21 Q. And so Barnes & Thornburg is
22 representing that retailers and also representing
23 Johnson & Johnson at the same time, true?

24 A. They're representing us in

1 negotiations and --

2 Q. And you --

3 MR. JONES: Mr. Satterley, please
4 let him finish. You may finish, Mr. Kim,
5 you said "and".

6 THE WITNESS: Barnes & Thornburg is
7 representing Johnson & Johnson in certain
8 negotiations.

9 BY MR. SATTERLEY:

10 Q. And you have approved the law firm
11 of Barnes & Thornburg to use the threat of the
12 Texas Two-Step divisional merger in settlement
13 negotiations, true?

14 A. I would disagree with that.

15 Q. You know that the law firm of
16 Barnes & Thornburg has used the threat of
17 divisional merger in settlement negotiations,
18 true?

19 A. I don't know.

20 MR. JONES: I'm going to object to
21 the form of the question. Mr. Kim, I'm
22 going to caution you about not revealing
23 any advice or work product.

24 THE WITNESS: Any communications

1 with Barnes & Thornburg would be
2 privileged.

3 BY MR. SATTERLEY:

4 Q. So these letters, these recent
5 letters, they're post-litigation, right? Lawsuits
6 are already ongoing?

7 A. They're post-filing, yes.

8 Q. Yes. And so these letters offering
9 indemnification allows J&J to have full control
10 over the handling of the case, right?

11 A. I would defer to the letter.

12 Q. Well, it says "full control" right
13 there.

14 A. I see that.

15 Q. So you agree that this gives
16 Johnson & Johnson full control over the case,
17 right?

18 A. I would defer to whatever -- we
19 have full control to the extent that that
20 paragraph gives us whatever control there is in
21 that paragraph.

22 Q. And these letters that you approve
23 also indicate that Johnson & Johnson can tender
24 back to the retailer the defense at any time it

1 wants, correct?

2 A. I don't believe that -- so like
3 paragraph six there are conditions that are
4 attached to this. So while it says full control,
5 for example, in paragraph six, it can't do -- like
6 if you read the last sentence, you know, that J&J
7 may settle this matter -- I'm sorry, you are
8 moving it.

9 Q. Sorry, go ahead.

10 A. With conditions. So full control
11 doesn't mean you can do anything you want, you
12 know, there are conditions and the same was true
13 with the tender back. If you can point to that,
14 if I recall these letters, there are conditions
15 where we can tender it back but it's not -- we
16 can't just tender it back because we feel like it
17 so maybe if you can go to that section, we can
18 look at that.

19 Q. I'm looking for -- there we go,
20 right there, paragraph two, they can tender back
21 to the retailer, right? Reserve the right to
22 retender the defense back to the retailer, right?

23 A. Upon certain conditions being
24 present.

1 Q. Is it your view that these letters
2 from this law firm Shook, Hardy & Bacon, they
3 extinguish the rights of individual plaintiffs
4 against retailers?

5 MR. JONES: Object to the legal
6 conclusion and a opinion requested. You
7 have a view, Mr. Kim?

8 THE WITNESS: My view would be that
9 they don't extinguish rights that
10 plaintiffs may have against the
11 claimant -- sorry -- plaintiffs may have
12 against the retailer.

13 BY MR. SATTERLEY:

14 Q. They do not, correct?

15 A. I don't believe they do.

16 Q. Okay. By the way, now that we've
17 looked at Exhibit 2, is there anywhere in this
18 letter that you've approved that gives extra
19 security for retailers that make them anything
20 more than an unsecured creditor in bankruptcy?

21 A. Again, I don't believe there's
22 anything in the letter that does that. To make a
23 legal conclusion you would have to look at other
24 documents, for example, if there was any other

1 agreement that led to the idemnification in the
2 first place.

3 Q. And you are not, as you sit here
4 today, aware of any other contracts, agreement
5 that give extra security to these third party
6 retailers or distributors, true?

7 A. Yeah, I don't recall sitting here
8 right now.

9 MR. SATTERLEY: I'm going to have
10 about 15 or 20 more minutes and I know you
11 guys probably want to take a lunch --

12 MR. JONES: I believe calories
13 would be prudent, yes.

14 MR. SATTERLEY: Do you mind if we
15 go for 20 more minutes and take a lunch
16 break at 12:30, something like that?

17 MR. JONES: Let's ask Mr. Kim. Are
18 you up for 15 more minutes before eating?

19 THE WITNESS: That's fine.

20 MR. JONES: So let's proceed and
21 we'll shoot for 12:30, Joe. Please
22 proceed.

23 MR. SATTERLEY: Okay. Adam, is
24 that okay with you?

1 MR. SILVERSTEIN: I was going to
2 say that time works well because it will
3 give me an opportunity to get the exhibits
4 numbered correctly so, yeah, that works.

5 MR. JONES: Is that okay with you
6 Madame Court Reporter?

7 THE COURT REPORTER: Yes, of
8 course.

9 MR. SATTERLEY: Are we ready to
10 keep going?

11 MR. JONES: Yes.

12 BY MR. SATTERLEY:

13 Q. Has LTL hired any additional
14 employees since its creation on October the 12th?

15 A. No, not hired yet, no.

16 Q. Did the devisive merger plan that
17 was discussed in April moving forward, did J&J
18 give that a project name?

19 MR. JONES: Object to form. You
20 may answer.

21 THE WITNESS: At some point as we
22 were doing -- looking into these
23 divisional merger issues and other
24 options, there was a project name that was

1 given to the process.

2 BY MR. SATTERLEY:

3 Q. And what was the project name?

4 A. It was called Project Plato.

5 Q. Can you spell that?

6 A. P-L-A-T-O, like in the philosopher.

7 Q. Who devised that name?

8 A. I do not know.

9 Q. And when was Project Plato first
10 created?

11 A. Actually, I would have to refer to
12 documents when that name first came up. I don't
13 recall when that was first done.

14 Q. And was the Project Plato kept
15 secret within a number of people?

16 MR. JONES: Object to form.

17 THE WITNESS: I believe it was a
18 nonpublic deal so that we did keep it
19 confidential among a number of people.

20 BY MR. SATTERLEY:

21 Q. Who were the people that knew of
22 the Project Plato by name?

23 A. Well, it's going to be hard for me
24 to figure out the number -- the names, and it also

1 changed over time.

2 Q. Prior to October the 12, when
3 public filing occurred, who were the people within
4 J&J that knew of Project Plato?

5 A. I don't recall. There are -- there
6 must have been at least 30 or 40 people. I'm not
7 sure whether there were any documents that list
8 them all out, but there was a group of people that
9 were involved in the due diligence process, which
10 the list was extensive.

11 Q. So tell me the names of the folks
12 you know that knew of Project Plato, prior to it
13 becoming public?

14 A. It would have been members of the
15 corporate business development teams that were
16 handling this, so Chris Andrew was heading that.
17 We had a project manager, Tom McCann, who was
18 helping Chris out on that. We had people from
19 finance.

20 It would be easier to give you sort
21 of the categories. I actually don't know the
22 names of the people off the top of my head but we
23 had people from finance, from risk management,
24 from tax. We had a bunch of people looking

1 through contracts. So it was an extensive team
2 that was looking to see, you know, basically doing
3 the diligence process where they were seeing
4 whether there were any, for example, impediments
5 in contracts that would prevent us from doing
6 this.

7 Did I mention tax was involved?

8 Q. All these 30 to 40 people, were
9 they all Johnson & Johnson, the parent company,
10 employees?

11 A. I don't know that that's true. I
12 would have to see what companies they actually
13 worked for so there are shared services, people
14 who -- that may work for Johnson & Johnson
15 Services, Inc. and are deployed in different
16 departments, you know, there are -- I have to see
17 each individual to see who actually hired that
18 person. There probably were people also from JJCI
19 at some point and, again, I would have to go see
20 who was on that project.

21 Q. Was this Project Plato, individuals
22 that were involved in this, were they segregated
23 off in a separate work area for Project Plato?

24 A. No.

1 Q. These individuals that were
2 employed by Johnson & Johnson, the parent company,
3 that worked on Project Plato, they did so in their
4 normal office or their home because of COVID?

5 A. I believe, yeah, there was no
6 requirement as to where they needed to do their
7 work.

8 Q. No segregated area to keep people
9 working in different locations than normal Johnson
10 & Johnson business, correct?

11 A. I don't believe so but I think, as
12 you mentioned, I think most of them were working
13 from home.

14 Q. When did -- did Johnson & Johnson
15 reopen at some point post-COVID?

16 A. It did, there are ways that they
17 have. So, again, I don't -- the time frames
18 are -- I don't have right now. I think the last
19 wave was about a month ago and that -- the
20 expectation was that people would work at the
21 office three days a week.

22 Prior to that the expectation was
23 take people would work two days a week, but the
24 expectations, I think in practice, a lot of --

1 many people did not do as expected.

2 Q. Now, this Exhibit 1, this 1979
3 agreement that was located after the hearing on
4 the 22nd, located last Sunday, you, obviously, had
5 never seen that before the corporate restructuring
6 of 2021, correct?

7 A. Yeah, I don't think I had seen
8 that, no.

9 Q. During the time when the Plato
10 project was ongoing, you never saw this 1979
11 agreement, correct?

12 A. We did not see the agreement but we
13 did have the corporate minutes and we did have an
14 understanding as to how accounts were being kept,
15 so the document itself just reinforced everything
16 that we knew had happened so ...

17 Q. You cannot testify as what the
18 parties intended in the 1979 agreement, correct?

19 MR. JONES: Object to form.

20 THE WITNESS: I can read the
21 document.

22 MR. SATTERLEY: So can I but my
23 question is different. I didn't ask you
24 if you can read the document.

1 BY MR. SATTERLEY:

2 Q. My question is you can't testify as
3 to what the parties intended in the language in
4 the 1970 -- I guess 1978 agreement I should say?

5 MR. JONES: Object to form and
6 asked and answered.

7 THE WITNESS: What I can say is
8 that --

9 BY MR. SATTERLEY:

10 Q. Was that a yes or no? I didn't
11 hear.

12 MR. JONES: Mr. Satterley, he does
13 not have to answer your questions yes or
14 no, please quit suggesting that.

15 You can answer the question as you
16 see fit, Mr. Kim, over my objection, which
17 was asked and answered and to form.

18 MR. SATTERLEY: Well, I
19 respectfully disagree, Mr. Jones, the
20 judge will determine if it's responsive or
21 nonresponsive at some point in future.

22 BY MR. SATTERLEY:

23 Q. But do you understand my question,
24 Mr. Kim?

1 A. I understand the question. I think
2 it's ambiguous about, you know, what was intended.
3 I didn't have an understanding as to what was
4 intended from not only that document, from the
5 course of dealing -- and, you know, my experience
6 about how these liabilities were treated
7 throughout the history of Johnson & Johnson.

8 Q. You did not speak to anyone
9 involved in negotiation or drafting of that 1978
10 agreement, correct?

11 A. I'm sorry, one more time.

12 Q. You did not speak to anyone
13 involved in the negotiations or drafting of the
14 1978 agreement, true?

15 A. That is true.

16 Q. Are there similar agreements that
17 speak of liabilities allocated on the books or
18 records of J&J?

19 A. Yes, there are -- if you look at
20 the resolution, there were six divisions that were
21 operating as -- not as subsidiaries. At that time
22 those six divisions, including Johnson & Johnson,
23 you know, the division that we're dealing with,
24 were incorporated and liabilities were given to

1 them.

2 The rationale behind that was that
3 Johnson & Johnson at that time, through the '70s,
4 was trying to really become a holding company and
5 have the operations being done like separate
6 subsidiaries.

7 In that transaction all liabilities
8 were being put to the subsidiaries so that Johnson
9 & Johnson would have none and be a holding
10 company.

11 So if you look at the other five
12 divisions that are listed, I believe you will see
13 similar agreements with them.

14 MR. SATTERLEY: Move to strike
15 portions that were nonresponsive.

16 BY MR. SATTERLEY:

17 Q. You will agree there were no talc
18 records reflected on the books and records of J&J
19 in 1978, true?

20 MR. JONES: Asked and answered.

21 THE WITNESS: What was the question
22 again?

23 BY MR. SATTERLEY:

24 Q. There were no talc lawsuits

1 reflected on the books and records of J&J 1978?

2 MR. JONES: Object to form and
3 asked and answered.

4 THE WITNESS: Yeah, I would go back
5 to what I said, I haven't seen any but,
6 again, there are documents about
7 liabilities.

8 BY MR. SATTERLEY:

9 Q. Do you plan on returning to Johnson
10 & Johnson, the parent company, when the bankruptcy
11 is over?

12 A. It's speculative. I have no plans
13 to.

14 Q. You know what Windsor Minerals is?

15 A. I do.

16 Q. Windsor Minerals was never a part
17 of Johnson & Johnson Consumer, true?

18 MR. JONES: Object to foundation.

19 THE WITNESS: You know what, I
20 would have to look at that. I don't think
21 I've looked at that issue.

22 BY MR. SATTERLEY:

23 Q. As you sit here today you have no
24 evidence that Windsor Minerals was a part of

1 Johnson & Johnson Consumer?

2 MR. JONES: Same objection.

3 THE WITNESS: I don't recall.

4 Windsor Minerals was its own subsidiary,
5 not J&J. So I actually have not looked
6 into what happened with Windsor Minerals.

7 BY MR. SATTERLEY:

8 Q. Actually, Windsor Minerals was
9 created by Johnson & Johnson, Roger Miller, who
10 was the president of Windsor Minerals, was an
11 employee of Johnson & Johnson, correct?

12 A. Again, I would have to go see who
13 he actually was employed by. I would have to see
14 who he was actually employed by. If he was the
15 president of Windsor Minerals I would assume that
16 he was employed by Windsor Minerals.

17 Q. Have you looked at the creation of
18 Windsor Minerals, the letter creating it and how
19 it was created?

20 A. I have seen it. I just don't
21 sitting here -- I have not seen it in a while.

22 Q. In 1989, when Johnson & Johnson
23 sold Windsor Minerals to Cypress, it was sold by
24 Johnson & Johnson, not the consumer section, true?

1 MR. JONES: Object to foundation.

2 THE WITNESS: Again, I would have
3 to look at it, I defer to the documents as
4 to what it says.

5 BY MR. SATTERLEY:

6 Q. You've seen the contract between
7 Johnson & Johnson and Cypress in 1989, correct?

8 A. I have.

9 Q. And you saw the actual contract
10 discusses indemnification, do you recall that?

11 A. If you can show me the document, it
12 would help. I do recall there is idemnification
13 language in the agreement.

14 Q. And I don't have the document
15 printed out. I might show it to you next week
16 when we're together. But you've seen it in the
17 past many times, correct?

18 A. I have seen it, yes.

19 Q. Do you recall that in that
20 particular agreement between Johnson & Johnson and
21 Windsor they actually listed out the number of
22 claims that existed, talc-related claims that
23 existed in 1989?

24 A. I don't know -- I don't recall

1 that. Again, if I saw the specific language, it
2 would help me answer that.

3 Q. Why don't we do this, why don't we
4 take a lunch break and I'll look over my notes. I
5 might have just a little bit of follow-up after
6 the lunch break and then Mr. Silverstein will take
7 over. You guys want to do 45 minutes or an hour,
8 what do you want to do?

9 MR. JONES: I don't know, what's
10 convenient for people? John, would you
11 prefer 45 minutes or an hour?

12 THE WITNESS: I would prefer try to
13 get this over with as soon as we can so 45
14 minutes minimal.

15 MR. SATTERLEY: Fifteen minutes
16 then.

17 THE WITNESS: Unfortunately, I'm in
18 the office. Everything is closed. I have
19 to find someplace to get lunch now. Let's
20 say 45 minutes.

21 (Luncheon recess taken at 12:31
22 p.m.)

23 (Deposition resumes at 1:15 p.m.)

24 BY MR. SATTERLEY:

1 Q. We're back on the record. Mr. Kim,
2 did you have a good lunch?

3 A. Yes, thank you.

4 Q. Are you ready to proceed?

5 A. Yes.

6 Q. All right. I'll probably have 15,
7 20 more minutes, I just have some follow-up here.

8 MR. SATTERLEY: Before I do,
9 Mr. Jones, what's the status of the
10 decision memo that we talked about
11 earlier?

12 MR. JONES: I don't know if that's
13 what we called it, but we located the memo
14 that I think you were examining Mr. Kim
15 regarding. It has been marked privileged.
16 We will review it and inform you whether
17 we'll withhold, produce or produce with
18 redactions either later today or by
19 10:00 a.m. tomorrow. If we end up
20 producing it -- if we don't produce it and
21 withhold it, we'll give you a letter log
22 information for it.

23 If we end up producing it or
24 producing it with redactions, we will make

1 Mr. Kim available before the hearing for
2 another hour of deposition on the memo,
3 but we can't make that determination until
4 I look at it with the client, and I
5 haven't looked at it with Mr. Kim, and
6 make the determination but it is not long.
7 I will tell you you could get this from a
8 privilege log, it's about six pages with
9 an attachment, so any additional
10 examination shouldn't be long either, but
11 we'll make that determination and either
12 produce or not by 10:00 a.m. tomorrow.

13 MR. SATTERLEY: Appreciate that. I
14 reserve the right to ask additional
15 questions so let's proceed.

16 MR. JONES: One more piece of
17 business I would like now, just before I
18 forget, to designate the transcript today
19 provisionally confidential, I'm not sure
20 if we need any of that, but we'll either
21 continue with that designation or let you
22 know that by 10:00 a.m. in the morning
23 too, but not having heard all that will be
24 said, I don't want that to be forgotten at

1 the end of the day.

2 MR. SATTERLEY: Well, I would
3 object. I haven't used any confidential
4 documents in the deposition,
5 Mr. Silverstein may, but I think we should
6 meet and confer on that at the end of the
7 deposition.

8 MR. JONES: We can certainly meet
9 and confer but I am provisionally marking
10 it and designating it confidential, Madame
11 Court Reporter, and we'll see how it goes.

12 BY MR. SATTERLEY:

13 Q. Mr. Kim, the name Plato that you
14 talked about was given to this project, divisional
15 merger project, was that name -- when was that
16 name -- when was it created?

17 A. Again, I don't recall when it was
18 created or who created it. I'm not sure when that
19 name popped up.

20 Q. Was that before the April
21 presentation by the Jones Day lawyers?

22 A. Oh, no.

23 Q. Was it -- then it was after the
24 retention of Jones Day later on?

1 A. I believe, yeah, at some point as
2 we were working on this and we were investigating
3 the transaction, a project name showed up, as far
4 as I was concerned.

5 Q. And the project name Plato then,
6 during that time frame when it was confidential
7 and not disclosed to the public, there are
8 documents that have the name Plato on them,
9 correct?

10 A. I believe there are.

11 Q. And do you know who from Johnson &
12 Johnson has the Plato and Project Plato documents?

13 A. Again, there's a large team doing
14 diligence on this project, they would all have
15 some documents I assume about the project. There
16 was a project manager, Tom McCann, who was on the
17 project, he probably has most of the documents.

18 Q. And who is Tom McCann?

19 A. He's a project manager.

20 Q. And is he employed by Johnson &
21 Johnson, the parent company?

22 A. I would have to check. It's either
23 Johnson & Johnson or Johnson & Johnson Services,
24 Inc., I'm not sure which one.

1 MR. SATTERLEY: Mr. Jones, I don't
2 believe the Project Plato documents have
3 been produced. Can you produce those as
4 well?

5 MR. JONES: I have no idea what
6 those are nor do I know if they were
7 requested at this moment, so I will take
8 it under advisement.

9 MR. SATTERLEY: I'm requesting them
10 now and let's meet and confer on that as
11 well and reserve rights to ask questions
12 about those once those are produced.

13 MR. JONES: Joe, just let me put on
14 the record this is an enormously expedited
15 proceeding so realize we can meet and
16 confer but we can only do what's practical
17 so let's move on.

18 MR. SATTERLEY: Meet and confer is
19 my specialty, I do it all the time.

20 BY MR. SATTERLEY:

21 Q. So did the devisive merger plan go
22 by any other project name other than the Project
23 Plato?

24 MR. JONES: Object to form.

1 THE WITNESS: I would say the
2 Project Plato, while focused on the
3 divisional merger, I think would encompass
4 any options that we would be considering
5 and there was no other name that was given
6 to reviewing our options.

7 BY MR. SATTERLEY:

8 Q. In the decision, the ultimate
9 decision, I think it's six pages with some
10 attachment that your counsel mentioned, does that
11 memorandum discuss the harms that a bankruptcy
12 would have on the mesothelioma victims and the
13 ovarian cancer victims?

14 MR. JONES: Object to the form of
15 the question and ask the witness not to
16 answer to extent he has a recollection and
17 it would reveal the advice of counsel.

18 THE WITNESS: Let me just start by
19 saying since Mr. Jones and I have not
20 discussed anything since this deposition
21 started, I actually don't know whether the
22 document he has, is the document I'm
23 thinking of, so let me just start with
24 that.

1 And so the document that I am
2 talking about only has -- just lists who
3 needed to sign off on the various parts of
4 the divisional merger.

5 So, for example, I do know that
6 Janssen's board has to sign off on
7 creating a entity below it and the memo
8 just lists, you know, that process and who
9 would that be. So that's what I'm
10 thinking about. So, again, I don't know
11 whether what Mr. Jones has is the same
12 thing that I'm talking about but that's
13 what I'm thinking about.

14 MR. JONES: For the record and as
15 swiftly as we can do it to help out here,
16 we tried to locate what I think is the
17 document. I may be mistaken but we will
18 apprise you as soon as we know.

19 MR. SATTERLEY: If there are two
20 documents, we would request both of them.

21 MR. JONES: I understand.

22 MR. SATTERLEY: Let me dig into
23 this for a few minutes.

24 BY MR. SATTERLEY:

1 Q. So the document you're thinking
2 about that talks about Janssen having to also give
3 the go ahead, do you recall approximately how big
4 of a document that was?

5 A. I don't recall. I didn't think it
6 was that long, actually.

7 Q. Okay. And in that document it does
8 say that Janssen has to actively say, okay, yes,
9 we're going to do this divisional merger thing?

10 A. Again, to create an entity
11 underneath Janssen, right, you have to have
12 Janssen's board approval for that, that's what
13 this memo lays out, who needs to approve what
14 parts of the transaction.

15 Q. Was Janssen at some point made the
16 parent of the old JJCI?

17 A. Janssen was made the parent of the
18 new JJCI.

19 Q. And when did that occur?

20 A. During the divisional merger
21 process. Again, if I can refer to my declaration
22 and that chart, I can just confirm that.

23 Q. Okay. You need to -- you want to
24 tell me what page number you're looking at?

1 A. Yeah, it's -- the addendum -- annex
2 one, defendant's corporate structure chart.

3 Q. Okay.

4 A. You see Janssen Pharmaceuticals
5 Inc. above Johnson & Johnson Consumer, Inc. over
6 LTL Management.

7 So, you know, Johnson & Johnson
8 Consumer, of course, that's the new JJCI and so in
9 order to have a subsidiary under Janssen
10 Pharmaceuticals, Inc., Janssen Pharmaceutical,
11 Inc. would have to approve that.

12 Q. All right. So let me just screen
13 share so that you and I are on the same page with
14 this chart. This is organizational structure of
15 LTL Management LLC, this is attached to your first
16 day pleading, correct?

17 A. Correct.

18 Q. And so what you're telling me is
19 this is the new structure after the divisional
20 merger, correct?

21 A. Correct.

22 Q. All right. And so it goes from
23 Johnson & Johnson to Janssen --

24 A. There may be others. The hatch

1 mark means there may be other intermediate
2 companies also so.

3 Q. Then there is the new JJCI here?

4 A. Yes.

5 Q. And then under the new JJCI you
6 have LTL Management?

7 A. Correct.

8 Q. And then under the new JJCI there's
9 still other indirect subsidiaries and direct
10 subsidiaries?

11 A. Under new JJCI they have the same
12 subsidiaries that old JJCI had, so during the
13 divisional merger other structures below old JJCI
14 were not disturbed.

15 Q. Prior to the divisional merger
16 Janssen wasn't in direct line between Johnson &
17 Johnson and Johnson & Johnson Consumer, correct?

18 A. I believe it was.

19 Q. It was?

20 A. Yes, I believe it was.

21 Q. And how long has that been the
22 case?

23 A. I actually have to look at the
24 records but I think it's around the same time that

1 there was the creation of Johnson & Johnson
2 Consumer, Inc. with the merger of McNeil PPC,
3 Neutrogena and others. So I think that's -- I
4 want to say '81 or so but it could have been
5 later.

6 Q. So this structure here, Johnson &
7 Johnson to Janssen to JJCI, it's your belief that
8 this has been a structure since 1981?

9 A. I have to go back and look to see
10 when that structure happened. I'm sorry, I don't
11 think it was '81 now. I would have to see when
12 the McNeil PPC merger happened. It may be 2015.

13 Q. So it's your testimony whenever the
14 McNeil merger happened, that's when Janssen became
15 in between Johnson & Johnson and Johnson & Johnson
16 Consumer?

17 A. I'd have to -- again, I'm going by
18 memory. I would have to refer to the record. We
19 have records on this so, you know, it's easily
20 ascertainable, I just don't have it in front of
21 me.

22 Q. So back to my question I was asking
23 earlier, this memo that you said that has
24 Janssen's name on it to give authority to make the

1 decision to do the divisional merger, anywhere in
2 that memo is there any discussion of the harm this
3 may cause to the mesothelioma creditors?

4 A. The document doesn't talk about any
5 underlying considerations, it just lists out who
6 has to authorize what.

7 Q. Is there any document wherein the
8 decision to do this divisional merger, wherein the
9 harm to the mesothelioma creditors are discussed?

10 MR. JONES: Object to the form and
11 foundation for the question, presumes
12 facts not in evidence.

13 THE WITNESS: I don't know
14 specifically there was a title harms to
15 the mesothelioma plaintiffs in any
16 document.

17 I do know that, for example, in the
18 LTL board minutes on its decision to file
19 bankruptcy considerations are listed,
20 including, you know, the litigation
21 background sections.

22 So, again, I don't know that the
23 word harms to mesothelioma claimants is
24 anywhere but, you know, the litigation and

1 effects of the litigation were discussed
2 and are reflected in the board minutes.

3 BY MR. SATTERLEY:

4 Q. Do you believe in the constitution?

5 A. Do I believe in the constitution?

6 I'm not sure what you're asking.

7 Q. Well, you know in the constitution
8 there's a right of trial by jury, right?

9 A. I do know that right, yes.

10 Q. Does Johnson & Johnson trust the
11 jury system?

12 A. I'm not going to make statements
13 about Johnson & Johnson, whether it trusts the
14 jury system.

15 Q. Do you trust the jury system?

16 A. I'm not sure that my personal
17 opinion matters in this context. I abide by the
18 jury system and we do our best to follow it. It
19 is the law of the land and we try to follow that.

20 Q. And so Johnson & Johnson does
21 follow the law of the land when a jury makes a
22 decision and the appeals are exhausted, Johnson &
23 Johnson abides by the jury's decision, right?

24 A. It has, yes.

1 Q. And this year you guys wire
2 transferred \$2.5 billion because 20 women -- it
3 was determined that 20 women had cancer as a
4 result of the product, right?

5 MR. JONES: Object to form.

6 THE WITNESS: I am actually not
7 sure of the exact amount but we did make a
8 payment on the Ingram verdict, which I
9 think you are referencing.

10 BY MR. SATTERLEY:

11 Q. So did you participate in the
12 valuation of future claims for all 30 some odd
13 thousand cancer victims that have made claims
14 against Johnson & Johnson and Johnson & Johnson
15 Consumer?

16 MR. JONES: Object to form and
17 foundation.

18 THE WITNESS: I'm not sure what you
19 mean by evaluation of future claims.

20 BY MR. SATTERLEY:

21 Q. Well, there's been statements made
22 publicly that there will be \$2 billion funded for
23 LTL, right?

24 MR. JONES: Object to form.

1 THE WITNESS: So I think the
2 statements are that there is a pre-funding
3 agreement where \$2 billion will be put
4 into a trust to pre-fund resolution of
5 this, of these issues, to the extent that
6 2 billion is needed.

7 BY MR. SATTERLEY:

8 Q. So my question was did you
9 participate in the evaluation of the claims with
10 regards to how much money is necessary to
11 adequately fund the trust?

12 MR. JONES: Object to form and
13 foundation, presumes facts not in
14 evidence.

15 THE WITNESS: So there has been no
16 determination thus far as to how much
17 is -- is -- would be adequate to fund a
18 trust for these, for the claimants, but it
19 is the understanding that 2 billion would
20 be more than enough to do so.

21 MR. SATTERLEY: Move to strike
22 portions that are nonresponsive.

23 BY MR. SATTERLEY:

24 Q. Sir, my question, did you

1 participate in creating that number, that
2 2 billion-dollar number?

3 A. I was part of the discussions on
4 how much a fund such as this should be, yes.

5 Q. And who else participated in the
6 discussion of the 2 billion-dollar trust fund?

7 A. I had discussions with my boss and
8 Andrew White, who reported to me, and I was aware
9 of discussions with others in finance and -- I'm
10 trying to think because I think there was a QSF
11 trustee that was involved in discussions.

12 Q. Okay. You've told me your boss,
13 Eric Haas, you talked to him.

14 Who else was it, by name, who was
15 involved in coming up with this 2 billion-dollar
16 number?

17 A. Andrew White, who reports to me,
18 and is the day-to-day person in charge of the talc
19 litigation.

20 Q. Anybody else by name involved in
21 coming up with this 2 billion-dollar number?

22 A. I'm thinking there were people in
23 finance but I'm not sure who was involved in that
24 discussion. Those are the people that I had

1 discussions with.

2 Q. So there's somebody in finance but
3 you can't identify by name anybody?

4 A. So I wasn't in that -- I was aware
5 of conversations in finance, so I don't know who
6 that might have been.

7 Q. Are there documents that set forth
8 the calculation on how this \$2 billion was arrived
9 at?

10 A. I don't know.

11 Q. Did you do any type of calculations
12 yourself to come up to the \$2 billion?

13 A. I did not myself do calculations.

14 MR. JONES: Let me object to
15 foundation.

16 BY MR. SATTERLEY:

17 Q. Were you provided -- I'm sorry,
18 were you finished?

19 A. I am.

20 MR. JONES: I'm sorry, go ahead,
21 John. He's finished and I'm finished, I
22 think.

23 BY MR. SATTERLEY:

24 Q. Were you provided any calculations

1 of how this \$2 billion was arrived at?

2 A. I think there were discussions
3 about the 2 billion-dollar -- I don't recall
4 anyone doing like a spreadsheet or anything on
5 that. I know that others looked at the number of
6 cases that were out there and looked at various
7 different figures and it was -- the consensus was
8 that 2 billion was more than sufficient.

9 Q. I didn't ask you about the
10 consensus. I was asking you about calculation.

11 Did somebody provide you any
12 calculations how this 2 billion-dollar was
13 arrived?

14 A. So numbers were discussed. I'm not
15 sure what you mean by provided me calculations,
16 numbers were discussed. Numbers were discussed is
17 all I can say.

18 Q. So you say you discussed with Eric
19 Haas and Andrew White and you can't think of
20 anybody in finance by name.

21 Anybody else you talked about this
22 2 billion-dollar number with?

23 A. I may have talked to the board of
24 LTL. I believe there was a discussion in a board

1 meeting talking about the funding, the funding
2 mechanism, the amount.

3 Q. The board being the Johnson &
4 Johnson parent board?

5 A. No, LTL, LTL board of managers.

6 Q. Did you talk with the Johnson &
7 Johnson parent board about funding?

8 A. No.

9 Q. Have you ever spoken to the
10 board -- the Johnson & Johnson parent board about
11 LTL?

12 A. No.

13 Q. Has the Board of Directors of
14 Johnson & Johnson ever approved the
15 2 billion-dollar funding?

16 A. I don't believe it has.

17 MR. JONES: Object to foundation.

18 John, object to foundation.

19 THE WITNESS: I don't believe so.

20 BY MR. SATTERLEY:

21 Q. Does Janssen, do they have a
22 separate Board of Directors from Johnson &
23 Johnson, the parent?

24 A. I believe Janssen does.

1 Q. So Janssen is a wholly-owned
2 subsidiary of J&J, the parent?

3 A. Yes.

4 Q. And JJCI has no Board of Directors,
5 true?

6 A. I don't think that's true.

7 Q. Does JJCI have a Board of
8 Directors?

9 A. I believe it does.

10 Q. Who is the chairman of the board of
11 JJCI?

12 A. I would have to see currently.

13 Q. So the 2 billion-dollar amount, was
14 that decided upon by you, Eric and Andrew?

15 MR. JONES: Objection to
16 foundation.

17 THE WITNESS: Those are the
18 conversations I had but my understanding
19 is that there were other conversations
20 had.

21 BY MR. SATTERLEY:

22 Q. So who ultimately decided upon the
23 number to fund this trust at \$2 billion?

24 MR. JONES: Object to foundation.

1 THE WITNESS: That might be the
2 decision memo. I would have to defer to
3 that, at what level it had to be approved.

4 BY MR. SATTERLEY:

5 Q. So can you tell me by name who
6 decided and approved the \$2 billion should be the
7 amount to put in a trust fund?

8 A. Sitting here I don't know who
9 actually made the ultimate determination and I
10 would have to check.

11 Q. Was that decision presented to the
12 Johnson & Johnson Board of Directors?

13 A. I do not believe it was.

14 Q. Was that decision presented to the
15 Janssen Board of Directors?

16 A. I would have to -- again, I'd have
17 to defer to the process and what the process
18 document says, who needs to approve that.

19 Q. Have you reviewed any board of
20 director minute meetings wherein the discussions
21 of talc liabilities and the amount it was going to
22 cost for those liabilities were discussed?

23 MR. JONES: Object to form.

24 THE WITNESS: I think, you know,

1 again, I think we discussed it at the LTL
2 board.

3 BY MR. SATTERLEY:

4 Q. I'm not talking about LTL. I'm
5 talking about Janssen or J&J, the parent.

6 Have you reviewed any board minutes
7 where they discussed these liabilities?

8 A. I may have reviewed them. Sitting
9 here today I don't recall specifically but they --
10 there may be board minutes in the closing binders.

11 Q. So early in the deposition this
12 morning I asked about closing documents and you
13 reference closing documents, I think your counsel
14 said the closing documents were produced in
15 discovery.

16 Do you recall that discussion on
17 closing documents?

18 A. I recall my talking about it, yes.

19 Q. Okay. So I want to ask who were
20 the counsel involved in the closing documents?

21 A. That would be Jones Day.

22 Q. Any law firms other than Jones Day
23 in the closing documents?

24 MR. JONES: Object to foundation.

1 THE WITNESS: I'm not sure. I
2 can't recall any others. There could have
3 been tax counsel, there could have been
4 people on the trust. I would have to go
5 through to see if there were any other
6 lawyers involved, but Jones Day put
7 them -- put all the documents together.

8 BY MR. SATTERLEY:

9 Q. And what were the names of the
10 attorneys at Jones Day involved in the closing
11 documents?

12 MR. JONES: Object to foundation.

13 THE WITNESS: Actually, I don't
14 know who organized that. I reviewed them,
15 I can look in my e-mail to see who sent
16 them to me, but I don't recall right now.

17 BY MR. SATTERLEY:

18 Q. Do you have your computer up and
19 e-mails up?

20 A. I do.

21 Q. Have you been receiving e-mails
22 during the deposition?

23 A. I have not.

24 Q. Have you been receiving any text

1 messages or anything during the deposition?

2 A. No, thank God.

3 Q. You want to take a look at your
4 e-mail and tell me who the attorneys were that
5 were involved in the closing documents?

6 MR. JONES: Joe, these haven't been
7 requested, we're not going to go e-mail by
8 e-mail. If he has a recollection, he can
9 tell you. He happens to be at his office,
10 at your convenience, so he didn't have to
11 travel. We could have been in a
12 conference room anywhere in America. If
13 he can tell you, he can tell you.

14 MR. SATTERLEY: Thank you, I
15 appreciate that.

16 BY MR. SATTERLEY:

17 Q. Mr. Kim, can you look at your
18 e-mail and tell me who the attorneys were that
19 were involved in the closing documents?

20 THE WITNESS: Can I ask my counsel
21 whether I should do this?

22 MR. JONES: John, if you have a
23 recollection, you can share it. We're not
24 going through your folders live.

1 THE WITNESS: I don't recall who
2 put them together. I can tell you the
3 name of the attorney who was helping us
4 through the process was Troy Lewis.

5 BY MR. SATTERLEY:

6 Q. At Jones Day?

7 A. At Jones Day, yeah.

8 MR. JONES: Troy Lewis is a partner
9 in the Dallas office of Jones Day.

10 BY MR. SATTERLEY:

11 Q. Anybody else that you know of,
12 attorneys, that were involved in the closing
13 documents?

14 A. I got them sent to me. I'm not
15 sure who actually put them together.

16 Q. Who were the attorneys involved in
17 the Texas divisional merger?

18 MR. JONES: Object to form and the
19 foundation.

20 THE WITNESS: It certainly would
21 have been Troy was involved in that. Dan
22 Prieto was our counsel on that.

23 BY MR. SATTERLEY:

24 Q. When you are saying our counsel,

1 you are talking our counsel for LTL?

2 A. Well, it depends on -- so prior, of
3 course, they took care of the transactions before
4 the formation of LTL.

5 Q. And were the same counsel
6 representing old JJCI?

7 A. In that transaction, yes.

8 Q. And were the same counsel
9 representing the new JJCI?

10 MR. JONES: Objection, foundation.

11 THE WITNESS: So after the
12 divisional merger and bankruptcy, of
13 course, the new JJCI and Johnson & Johnson
14 were represented by White & Case.

15 BY MR. SATTERLEY:

16 Q. I'm sorry?

17 A. After the divisional merger and the
18 bankruptcy filing, Johnson & Johnson and old JJ --
19 new JJCI were represented by White & Case.

20 Q. And which attorney at White & Case?

21 A. Jessica Lauria.

22 Q. Just so I understand, during the
23 transactional of the Texas division merger, both
24 LTL and old JJCI and was represented jointly by

1 Jones Day, this Mr. Lewis and others?

2 A. Again, before the divisional merger
3 there was no LTL, it was all old JJCI and Johnson
4 & Johnson, and after the divisional merger LTL was
5 represented by Jones Day. New JJCI and J&J were
6 represented by White & Case.

7 Q. And Michelle Goodrich, who is that?

8 A. Michelle Goodrich is the president
9 of JJCI. New JJCI, old JJCI.

10 Q. Okay. Old JJCI and new JJCI?

11 A. Well, when it was old JJCI. She
12 retained the position before and after the
13 transactions.

14 Q. And she was the individual who
15 signed off on the board of directors meeting?

16 A. I assume so. I would have to,
17 again, defer to the document.

18 MR. JONES: Object to foundation
19 and form.

20 BY MR. SATTERLEY:

21 Q. Does she continue in her same job
22 that she had before?

23 A. For new JJCI, yes.

24 Q. To your knowledge has any employee

1 been fired that were old JJCI when it converted
2 over and created new JJCI?

3 A. Not as a result of the transaction,
4 I have no idea.

5 Q. And that was my point.

6 A. Who has been fired or not but I
7 don't believe any as a result of the transaction.

8 Q. As a result of the transaction
9 everybody's job remains the same, nothing changed
10 in terms of laying off people or getting rid of
11 employees or anything like that, right?

12 MR. JONES: Object to form.

13 THE WITNESS: I don't believe so.
14 I don't know though.

15 BY MR. SATTERLEY:

16 Q. The only individuals that changed
17 job titles to your knowledge would be you,
18 Mr. Dickerson and Mr. Robert Wuesthoff?

19 A. As a result of the transaction, I
20 believe that's true.

21 Q. What does LTL stand for?

22 A. I believe -- I didn't come up with
23 the name but I think I've been told that genesis
24 was Legacy Talc Litigation.

1 Q. And who advised that you genesis
2 was Legacy Talc Litigation?

3 A. I think it was discussed in calls
4 we've had.

5 Q. And so who do you recall telling
6 you that LTL stands for Legacy Talc Litigation?

7 A. May have been Chris Andrew.

8 Q. And who is that?

9 A. He's the business development
10 attorney that oversaw the transaction.

11 Q. And he is an employee of Johnson &
12 Johnson?

13 MR. JONES: Object to foundation.

14 THE WITNESS: I think he is. He
15 could be with Johnson & Johnson Services,
16 Inc., but it's one of those.

17 BY MR. SATTERLEY:

18 Q. Do you have a copy of the joint
19 defense agreement you signed?

20 A. I may, I don't know actually. I
21 don't have it handy.

22 MR. SATTERLEY: I request a copy of
23 the joint defense agreement and with that
24 I'll reserve and turn the questioning over

1 to Mr. Silverstein.

2 Mr. Kim, I appreciate your time
3 today. I may or may not have follow-up
4 later today but I'm going to stop asking
5 questions at the current time.

6 THE WITNESS: Okay.

7 MR. SATTERLEY: Thank you, sir.

8 MR. JONES: Thank you, Joe.

9 MR. SATTERLEY: And, Mr. Jones, if
10 you could let me know about that memo and
11 also the joint defense agreement.

12 MR. JONES: The joint defense
13 agreement has been withheld as privileged,
14 we shared that in the last meet and confer
15 call and in my letter about privilege
16 logging, and so that's already been
17 withheld and the folks generally know that
18 but the other issues we talked about I
19 will get back to you as I said I would.

20 MR. SATTERLEY: Thank you.

21 BY MR. SILVERSTEIN:

22 Q. Good afternoon, Mr. Kim. I'm Adam
23 Silverstein, we saw each other briefly in the
24 courtroom last week. I represent the MDL

1 Plaintiff Steering Committee.

2 Are you okay to proceed or do you
3 need any time?

4 A. No, happy to go forward.

5 Q. All right. I'm going to follow-up
6 on a small number of areas that Mr. Satterley
7 addressed with you and then cover some new
8 terrain.

9 First, when you left the courtroom
10 last week on October 22nd was there anything in
11 your mind that you wish the attorneys had asked
12 you about and had been given the opportunity to
13 testify to in the courtroom last week that you did
14 not get the chance to say?

15 A. I don't think I had a thought about
16 that.

17 Q. Have you subsequently had any
18 thoughts, independent of any conversations with
19 counsel, about matters as to which you wish you
20 had been given the opportunity to testify but did
21 not get that opportunity?

22 A. I'm sure if I thought about it, I
23 would but I don't think I thought -- I know I have
24 not thought about that.

1 Q. Okay.

2 A. In that way.

3 Q. Were you satisfied with the
4 testimony that you gave last Friday?

5 A. I -- I'm not sure how to answer
6 that. I thought that it was very one-sided and at
7 points misleading but that's my general
8 impression.

9 Q. I know you have testified you have
10 never given a deposition before.

11 Have you ever testified in any
12 format previously?

13 A. Yes.

14 Q. And when was that?

15 A. I've testified twice both in Motrin
16 product liability matters in California and I
17 don't recall the dates of those. It was probably
18 ten years ago.

19 Q. Was that a multi-district
20 litigation or was that an individual claim?

21 A. They were individual lawsuits.

22 Q. Do you remember which court you
23 were in when you testified?

24 A. One was the Superior Court in Los

1 Angeles and one was the Superior Court in -- it's
2 the beach area west of Los Angeles. They no
3 longer have a courthouse there. It's escaping me.
4 It's one of the beach courts right outside of LA.

5 Q. Do you remember the names of any of
6 the litigants in the two cases or two proceedings
7 in which you testified?

8 A. One was the Johnson case, Serena
9 Breyerton Johnson and the other was -- the name is
10 escaping me right now. It's the one in Los
11 Angeles is -- I can't recall.

12 Q. If it comes back to you during the
13 course of the deposition, please let me know. I
14 want to switch subjects and go back to the 1978
15 board minutes for a few questions.

16 When was the first time that you
17 saw the 1978 board minutes?

18 MR. JONES: Maybe you can show the
19 witness, Adam, so we're all on the same
20 page. I believe Mr. Kim knows what you
21 are referring to but I would like to be
22 sure.

23 MR. SILVERSTEIN: Yes, I can and if
24 you bear with me a moment, I wasn't

1 planning on showing it to Mr. Kim, but I
2 did show it to Mr. Lisman yesterday and I
3 can pull that folder up in a moment.

4 THE WITNESS: Trejo.

5 BY MR. SILVERSTEIN:

6 Q. I'm going to share to the chat
7 room.

8 A. Trejo was the name of the case in
9 Los Angeles, T-R-E-J-O. My mind just keeps
10 working until it comes up, that's all.

11 Q. Did that just come to you or did
12 you look at anything to refresh yourself?

13 A. It just came to me as you were
14 talking.

15 Q. That happens to me as well. Okay,
16 I'm going to share to the chat room and also share
17 to the screen what was marked or what will be
18 marked as Exhibit 13 yesterday. I'm sharing it to
19 the chat and now I'm going to share it to the
20 screen. So the exhibit numbering system is a
21 little bit thrown off but we'll proceed as best we
22 can.

23 So, Mr. Kim, can you see on your
24 screen what I'm now showing you?

1 A. Yes.

2 Q. Minutes of A Regular Meeting of
3 Board of Directors of Johnson & Johnson, do you
4 see that where you are?

5 A. Yes.

6 Q. Okay. So this is a document that
7 is multiple pages, begins with Bates number
8 LTL000021. And when I was referring to the 1978
9 board minutes, this is the document I was
10 referring to.

11 Would you like me to scroll down to
12 refresh yourself on this?

13 A. If you could keep going down.

14 Q. Sure. Slowly scrolling down so
15 Mr. Kim can satisfy himself that he has seen this
16 before.

17 MR. JONES: Mr. Kim, while Adam is
18 scrolling, you can also download or upload
19 the PDF to your desktop if you like and
20 you can scroll yourself independently of
21 Adam.

22 BY MR. SILVERSTEIN:

23 Q. I'm actually not going to ask you
24 anything about the contents of this.

1 A. I was waiting to get to the part
2 with the baby products company.

3 Q. And let me get to that.

4 A. I think you just passed it.

5 Q. Did I pass it? I apologize.

6 A. Yeah, these are the minutes, I
7 know.

8 Q. The question for you, Mr. Kim, was
9 when was the first time, to the best of your
10 recollection, that you saw these?

11 A. I believe I saw these a few years
12 ago, I want to say 2018 but I can't be sure when
13 they were actually found and produced to the
14 plaintiffs in the underlying litigation.

15 Q. Do you recall which litigation or
16 litigations these board minutes were produced in?

17 A. I don't recall which ones
18 specifically but they would have been produced to
19 all of them. It was at a time when I think
20 plaintiffs were asking about the corporate history
21 of the product.

22 Q. Did there come a time after you
23 initially saw the board minutes when you asked to
24 see any of the agreements referenced in the board

1 minutes?

2 A. I don't believe I asked to see any
3 of the agreements. We were in the process of
4 looking for all documents that related to this and
5 so there was, generally, a request internally to
6 try to find the documents that related to that
7 board meeting.

8 Q. What was the purpose for the search
9 of all documents related to the board minutes?

10 A. I think it was just in discovery
11 responses primarily and also an inquiry internally
12 about trying to nail down the history of the
13 product.

14 Q. Did there come a point in time when
15 in connection with the devisive merger efforts
16 were made to look for documents related to the
17 board minutes?

18 A. Yes.

19 Q. And when was that, to the best of
20 your recollection?

21 A. I want to say it started -- I want
22 to say late September I think we were looking for
23 those.

24 Q. Of 2021?

1 A. 2021, yes. Recently.

2 Q. Okay. And who was tasked with
3 looking for the documents?

4 A. The request went to Chris Andrew,
5 who I mentioned was the lead on the business
6 development side and -- but we all were involved.
7 When I say "we", I was involved, Andrew White was
8 involved. We generally, with that type of
9 inquiry, would go directly to Laura Giacino, who I
10 mentioned, who would be the person responsible for
11 the corporate records, for example, minute books
12 and things like that. The document that you
13 showed me comes out of a J&J minute book. And so
14 at that point we searched again for the document.

15 I believe we also contacted outside
16 counsel that had done prior searches to see what
17 they had done.

18 Q. Outside counsel in connection with
19 the talc litigations?

20 A. The underlying litigation so
21 originally when we looked for these documents
22 years ago, Shook Hardy took the lead on that and
23 so we contacted them again last month as to the
24 search for the agreements.

1 Q. To the best of your recollection,
2 what were all of the various individuals and firms
3 that you identified asked to look for?

4 MR. JONES: Mr. Kim, if you made
5 the request and you know, you can share.
6 I'm just objecting to foundation. If you
7 don't know what they were asked to look
8 for, then you need to say that.

9 THE WITNESS: So I know that people
10 were asked to look for the documents that
11 are referenced in the minute book with
12 respect to the baby products company.

13 BY MR. SILVERSTEIN:

14 Q. Where did you look?

15 A. I asked people to look.

16 Q. Oh, okay. And who did you ask to
17 look?

18 MR. JONES: Object as asked and
19 answered this morning.

20 THE WITNESS: You're talking about
21 recently or back then, I guess, in 2018?

22 BY MR. SILVERSTEIN:

23 Q. I'm asking in 2021, September.

24 A. Again, the request --

1 Q. I'm sorry, Mr. Kim, just so we're
2 clear, who did you personally ask, as opposed to
3 the entire list that you gave?

4 A. Well, again, I think it was done in
5 communications in either group settings or
6 meetings or, you know, where the inquiry was made
7 among several people to -- that we should look for
8 this document.

9 Q. I'm going to share to the chat and
10 share on the screen what I marked as Exhibit 5,
11 it's LTL's Management responses to interrogatories
12 so bear with me one moment.

13 (Document marked for identification
14 as Kim Deposition Exhibit No. 5.)

15 MR. JONES: Adam, could you tell us
16 whose interrogatories?

17 MR. SILVERSTEIN: Yes, the
18 responses to Plaintiff's Steering
19 Committee Interrogatories, and I'm going
20 to share them with you in the chat room
21 right now and on the screen right now.

22 BY MR. SATTERLEY:

23 Q. So, Mr. Kim, I've put up on the
24 screen and I'm going to scroll down, just so that

1 you can satisfy yourself you've seen this before,
2 it's a document entitled Debtor's Answers and
3 Objections to Plaintiffs Steering Committee First
4 Set of Interrogatories. I'm going to scroll down
5 slowly, just so you can determine if you've seen
6 this before, and then, of course, I'll stop and
7 you can read whatever you like, but for now I want
8 to familiarize you with the document.

9 Mr. Kim, I have just scrolled down
10 slowly through the document.

11 Have you seen this Exhibit 5
12 before?

13 A. Yes, I have.

14 Q. Did you understand these are
15 verified responses to written questions that were
16 posed by my client, the MDL Plaintiff Steering
17 Committee?

18 A. I do.

19 Q. And the responses are on behalf of
20 the debtor LTL Management?

21 A. Correct.

22 Q. And you authorized your electronic
23 signature to verify these responses?

24 A. I did.

1 Q. And by that you understood that you
2 were acknowledging that to the best of your
3 knowledge and information, the answers in these
4 responses were truthful and accurate?

5 A. Yes.

6 Q. I want to bring your attention to
7 question one, which was to identify the date on
8 which and location by reference to office server,
9 hard drive, microfilm, et cetera, from which the
10 agreement for Transfer of Assets and Bill of Sale
11 bearing Bates numbers LTL0000557 to 64 was
12 discovered.

13 Do you recall that question?

14 A. Yes.

15 Q. And the response is set out below
16 that the document which you and your attorneys
17 defined as the 1979 transfer document was located
18 on Sunday, October 24, 2021, correct?

19 A. Correct.

20 Q. And what was the basis for your
21 verification that that was accurate?

22 A. On Sunday, October 24, 2021 I
23 received a communication that this document was
24 found with a copy of it, and then I discussed the

1 circumstances behind how we found it, where we
2 found it and who found it.

3 Q. Okay. And you were informed or --
4 withdrawn.

5 You came to understand that the
6 document was located by Ms. Schreiger-Ward,
7 correct?

8 A. Correct.

9 Q. And it was found in the Memotech
10 database?

11 A. Correct.

12 Q. And I do apologize if you described
13 in any detail what the Memotech database is but
14 could you, just for my benefit, tell me what the
15 Memotech database is?

16 A. Sure, sure. So the Memotech
17 database is one of our older databases where we,
18 years ago, were trying to take the old paper files
19 that we were keeping, our business records, and
20 putting them into a searchable database and then
21 we could get rid of the paper.

22 So the Memotech database is a --
23 what we consider of sort of the document
24 repository of record for our business records that

1 has -- the documents are indexed and you can do
2 searches on the index then a visual
3 representation, scanned copy of the document shows
4 up and can be printed.

5 Do you want me to talk about the
6 iManage database as well?

7 Q. I am going to ask you about the
8 next sentence which says an additional copy of the
9 1979 transfer agreement was located on Monday,
10 October 25 in the iManage storage system.

11 What was your basis for verifying
12 that to be accurate?

13 A. I was in the office on Monday and
14 was talking to Susan, among others, and she
15 indicated how she found another copy in the
16 iManage database that day and showed us the
17 document.

18 Q. What is the iManage database?

19 A. So the iManage database is a newer
20 document system for our business records and
21 the -- unlike the Memotech database, the iManage
22 database really consists of PDF files and so for
23 newer documents it's more readily searchable now.
24 That wouldn't apply to, for example, this 1979

1 document, that's always going to be -- that's a
2 picture file, not a searchable PDF, but the
3 Memotech database is outdated now and so a project
4 was started a few years ago to shift all the
5 documents from Memotech or to -- the business
6 records from Memotech to iManage so that iManage
7 could takeover. And so the duplicate was found --
8 another copy of that document was found in the
9 newer system.

10 Q. And who has access to the Memotech
11 system?

12 MR. JONES: Mr. Kim, let me object
13 to foundation. Give me a beat.

14 BY MR. SILVERSTEIN:

15 Q. Let me rephrase it. Do you know
16 who has access to the Memotech database?

17 A. I knew people who were trained on
18 it, I think, I'm not sure whether there's access
19 or not access granted. I know of two people who
20 are trained on it. There may be more because
21 Memotech started out as a patent database and so I
22 assume there are numerous people in the patent
23 department that are trained on using Memotech but,
24 you know, for us Susan and Ellen Butalite(ph.) are

1 the two people that I know that are trained on the
2 Memotech database.

3 Q. To the best of your knowledge, who
4 has access to the iManage system?

5 A. IManage is a little more
6 complicated because there are iManage systems that
7 span the law department. So, for example, there's
8 an iManage system that the litigation group uses.

9 This particular iManage system with
10 the business records are -- people in the file
11 room at J&J have access to that, I don't know who
12 besides Ellen and Susan, but I think it would
13 be -- there are probably more people familiar with
14 the iManage system than the Memotech system.

15 Q. Okay. So moving on to the second
16 interrogatory, the question was posed to the
17 debtor, I'm going to paraphrase and Mr. Jones can
18 object if he thinks I have done it inaccurately,
19 but the question was posed as to what locations
20 were searched for the 1979 transfer agreement
21 and/or any other documents evidencing the
22 transaction prior to when the 1979 transfer
23 agreement was located last weekend, is that how
24 you understood the question to be posed?

1 A. I mean, the interrogatory says what
2 it says.

3 Q. When you verified the answer did
4 you understand that the answer was intended to
5 identify all locations for which the 1979 transfer
6 agreement, as the debtor defined it, was searched
7 prior to the bankruptcy filing?

8 A. Yes, although in my mind related to
9 the -- I testified earlier to an earlier search
10 and I thought you were asking what did you search
11 for before.

12 Q. And when you say "before," what's
13 the time period that you're thinking of?

14 A. That would be the time frame that I
15 discussed, like the 2018 time frame, when this
16 came up, the last time that I discussed earlier.

17 Q. So the answer to interrogatory
18 number two, as you understood it, was referring to
19 where the agreement was searched for in 2018?

20 A. That's the focus I thought of this.

21 Q. Okay.

22 A. What did you say, 2018? I
23 testified at the hearing that we had looked for
24 the document before and I thought the purpose of

1 this interrogatory was when you looked for that
2 document at that time, where did you look.

3 Q. Okay. So does the response to
4 interrogatory number two describe all locations
5 where the document was looked for prior to
6 October 22, when you testified?

7 A. I believe it does.

8 Q. Am I correct that prior to
9 October 22, to the best of your knowledge, no one
10 looked on the iManage system for the agreement?

11 A. I was looking at that, I don't know
12 that to be true. I base this upon searches that I
13 seen, I just don't know when iManage went online
14 and when it was looked at. It could have been
15 based upon the limited views that, you know, of
16 what we saw, I believe this is what was searched.

17 Q. So do you have any knowledge or
18 information as to whether the iManage system was
19 searched prior to October 22 for the 1979 transfer
20 agreement?

21 A. It may have been. I don't have a
22 document that shows that.

23 Q. Do you have any knowledge or
24 information that iManage was searched prior to

1 October 22 for the 1979 transfer agreement?

2 MR. JONES: Object as asked and
3 answered.

4 THE WITNESS: I don't have any
5 firsthand knowledge that it was but I
6 don't know that it wasn't.

7 BY MR. SILVERSTEIN:

8 Q. Okay.

9 A. What we answered was the ones that
10 we knew, based upon documents, were searched but
11 it does not mean that it wasn't searched.

12 Q. I understand. We're going to get
13 through this quickly if you can stay on my
14 questions. There's going to be a lot of other
15 questions that I don't ask that you may want to
16 answer and you will get the opportunity. I don't
17 suggest that my questions are covering everything.
18 I'm asking what I want to ask and I ask that you
19 just answer that and I understand that you may
20 think that it's not complete in my questions.

21 Let's carry on.

22 One other question, do you recall
23 the names of any of the attorneys who questioned
24 you in California at trial, either their

1 individual names or the law firms?

2 A. The Witzer firm and Green Broillet.

3 Q. And do you recall any other law
4 firms or individuals involved with that lawsuit
5 when you testified in court?

6 A. No, those were the firms -- those
7 were the plaintiff firms.

8 Q. Very good. We're switching
9 subjects.

10 So prior to accepting the role as
11 chief legal officer of the debtor, you were the
12 practice group lead for the product liability
13 litigation group, correct?

14 A. Yes.

15 Q. And, as such, were you familiar
16 with the MDL litigation that my client is the
17 steering committee for?

18 A. I was.

19 Q. Okay. And what has your role been
20 in connection with that talc MDL litigation prior
21 to the formation of the debtor?

22 MR. JONES: Given the obvious risk
23 of privilege and work product disclosure
24 here, I would like you to frame your

1 answer, Mr. Kim, to avoid that, if
2 practical.

3 BY MR. SILVERSTEIN:

4 Q. I'm looking for a general
5 description of your role, not for anything more
6 specific than that.

7 A. So I oversaw the attorneys with
8 day-to-day responsibility for the MDL and
9 participated when needed in strategy, you know,
10 and decision-making on those cases.

11 Q. As inside attorneys who were the
12 day-to-day attorneys that you were referring to?

13 A. Well, it's changed over time so...

14 Q. So we're going to, hopefully, get
15 through this quickly. So as of the end of
16 September 2021 who was managing the day-to-day
17 activities in-house in connection with the MDL
18 litigation?

19 A. Andrew White.

20 Q. For how long has Mr. White been the
21 day-to-day manager of the litigation in-house,
22 approximately?

23 A. These time frames all sort of melt
24 together. I'm going to guess four or five years,

1 could be longer. Time flies.

2 Q. And who prior to Mr. White,
3 immediately prior to Mr. White was involved in
4 day-to-day litigation management in-house?

5 A. That was two people, John
6 O'Shaughnessy and Denise Houghton.

7 MR. JONES: Again, are these
8 MDL-specific questions?

9 MR. SILVERSTEIN: Yes, yes.

10 BY MR. SILVERSTEIN:

11 Q. Did you understand that, Mr. Kim,
12 when you answered?

13 A. Yes, they actually handle all the
14 talc litigation, including the MDL.

15 Q. Again, this is posed to you
16 generally and not looking for any attorney-client
17 information, but what was your understanding of
18 the status of the MDL litigation, the talc
19 litigation, at the end of September, immediately
20 prior to the formation of the debtor?

21 A. The MDL had been going on for about
22 five years, we were now at the point where we were
23 doing workups of various cases. The way that the
24 judge set it up was that there were a number of

1 cases that plaintiffs chose, a number of cases
2 that defendants chose and a number of cases that
3 the court chose.

4 The plaintiffs kept dropping their
5 case. The cases that defendants chose, they were
6 being replaced or the number of workups was being
7 affected by that, and my understanding was that
8 some time in the second quarter of 2022 the judge
9 indicated that she would be trying some cases only
10 and that after that, all the cases would have to
11 go back to the jurisdictions from which they came.

12 Q. To the best of your understanding
13 what was the status of fact discovery at the end
14 of September in the MDL?

15 A. There's actually -- the discovery
16 that was going on was case specific so was related
17 to the -- you know, to the plaintiffs. Generally,
18 we had made available to the plaintiffs in the MDL
19 the large amount of discovery that we had provided
20 to other plaintiffs in all the cases. There was
21 also expert discovery that was done in the MDL as
22 part of the Daubert proceedings and so that was
23 the status of discovery.

24 Q. Am I correct that the talc MDL

1 litigation is not the only MDL litigation with
2 which you have been involved in either a
3 day-to-day capacity or an overseeing capacity at
4 Johnson & Johnson?

5 A. That is correct.

6 Q. Were you involved with MDL
7 litigation involving Tylenol?

8 A. Yes.

9 Q. And where was that MDL litigation?

10 A. Philadelphia, Pennsylvania.

11 Q. And what is the status of the
12 Tylenol MDL?

13 A. That has been resolved.

14 Q. When was the Tylenol MDL resolved?

15 A. I think for all intents and
16 purposes the resolution was about I want to say
17 three years ago. I see others on this call that
18 could probably answer that question.

19 Q. In due course but what was your
20 role in the settlement? And I'm speaking again in
21 the broadest terms, not asking for you to disclose
22 any attorney-client information but in very broad
23 terms what was your role in connection with the
24 settlement of the Tylenol litigation?

1 A. I settled that case. I had the
2 principal role of the negotiator and settling it.

3 Q. Okay. Am I correct that there was
4 MDL litigations involving hip implant products?

5 A. Yes.

6 Q. Were those MDL litigations that you
7 were involved with?

8 A. Yes.

9 Q. Where were those MDLs?

10 A. One MDL was in Texas and the other
11 MDL -- I'm forgetting now where ASR was. I know
12 others on this phone call could say but I don't
13 recall. It will come to me if we give it enough
14 time.

15 Q. If you recall, please let me know.
16 Today I'm only asking for your best recollection
17 and I do understand that not everything -- I think
18 I'm roughly around the same age as you and it
19 doesn't always come back as quickly as we like.

20 So the Texas MDL, was that
21 involving a product called DePuy ASR? I may be
22 mispronouncing it.

23 A. So Texas was Pinnacle.

24 Q. Okay. And the other MDL was ASR?

1 A. Yes.

2 Q. What is the status of the Texas
3 MDL?

4 A. It is basically resolved so, you
5 know, these mass torts, you know, Tylenol was
6 basically completely resolved, I don't think there
7 are any claims left.

8 You know, for other mass torts
9 generally what happens is the bulk of cases are
10 resolved through settlement. There may be
11 handfuls of cases that have not been resolved, but
12 at some point often the MDL gets disbanded when,
13 you know, a settlement may be done but then it
14 gets disbanded but it really depends upon the
15 circumstance of an MDL and the allegations of the
16 MDL, how -- what the time frame is where there are
17 potential claims and whether there's an actual end
18 to the claims.

19 So MDLs like, for example, in
20 Pinnacle are not resolved but we do know there's
21 only so many years that claims can be made and
22 that the bulk of the claims have been settled. So
23 when they say "resolved," it doesn't always mean
24 that it's completely gone, it just means that for

1 the ones that, we have the ones that had settled,
2 the bulk of them settled and there isn't anything
3 more significant left.

4 Q. When was the Pinnacle MDL resolved
5 on whatever basis it was resolved?

6 A. So, again, that's a good example.
7 So we entered into agreements with plaintiffs I
8 want to say two years ago but not everyone has
9 accepted and so there still may be cases left, you
10 know, when I say resolved that means, you know,
11 for the most part the MDL is now in the business
12 of administering sort of the settlement, but there
13 may be additional trials left that have to be done
14 for people who don't settle.

15 Q. So when was -- the claims that did
16 settle, when did that occur?

17 A. I think it started a couple years
18 ago but it's still ongoing.

19 Q. And what about the ASR MDL, what is
20 the status of that?

21 A. It's the same. So we entered into
22 many agreements much earlier so I would say seven
23 years ago or something like that, again, I would
24 have to look at the documents, but, you know, a

1 bolus of plaintiffs accepted the settlement, some
2 did not and so there's continuing -- it continues
3 even though the bulk of it has resolved, but based
4 upon, when you are talking about these medical
5 devices, there's only a period of time where the
6 devices were used and so there is more of an end
7 date that you can look at and predict how many
8 cases would go on after that.

9 Q. Are there other MDL litigations at
10 Johnson & Johnson which you've been involved?

11 A. Yes, Xarelto, which is a
12 pharmaceutical product.

13 Q. I'm sorry, just going back to ASR
14 and Pinnacle, what was your role again, in broad
15 terms, in the resolution, to whatever extent you
16 are defining it occurred?

17 A. I was more involved in overseeing
18 the attorneys who resolved the cases.

19 Q. You had mentioned Xarelto, which
20 was a pharmaceutical product. Where was that MDL?

21 A. Xaralto MDL was in Louisiana.

22 Q. What is the status of that MDL?

23 A. We have entered into settlement
24 agreements with I think the vast majority of

1 plaintiffs and that's being processed right now.

2 Q. What was your role, again in broad
3 strokes, in connection with the Xarelto settlement
4 agreements and negotiations?

5 A. So I was overseeing the attorneys
6 that were responsible for that.

7 Q. Are there any other MDL litigations
8 that you have overseen or been the day-to-day
9 person at Johnson & Johnson, other than those that
10 you have identified?

11 A. Propulcid.

12 Q. What kind of product was that?

13 A. That's a pharmaceutical product.

14 Q. Where was that MDL?

15 A. That was in Louisiana.

16 Q. What is the status of that MDL?

17 A. That has, I think, finally been
18 resolved.

19 Q. When was the resolution, to
20 whatever extent it was?

21 A. I have to say I think 12 years ago,
22 maybe longer, older.

23 Q. Did you have any involvement in the
24 resolution?

1 A. I was involved in negotiation and
2 settlement of those.

3 Q. Are there any other Johnson &
4 Johnson MDL litigations that you have either been
5 the day-to-day manager of or overseeing?

6 A. Latex gloves.

7 Q. And what is the status of that MDL?

8 A. That's been resolved.

9 Q. Where was that MDL litigation?

10 A. That was in Philadelphia.

11 Q. When was that MDL resolved?

12 A. I'm sorry, you know what, that may
13 have been Chicago. That may have been Chicago.
14 It was resolved about 16 years ago.

15 Q. What was your role, if any, in the
16 resolution?

17 A. I negotiated the settlement and
18 settled that.

19 Q. Are there any other MDL litigations
20 that you've been involved with at Johnson &
21 Johnson?

22 A. Elmiron.

23 Q. I'm sorry?

24 A. E-L-M-I-R-O-N pharmaceutical

1 product.

2 Q. Where was that MDL?

3 A. New Jersey.

4 Q. What is its status?

5 A. It's just beginning.

6 Q. Any others?

7 A. Mesh.

8 Q. Where was that MDL?

9 A. That is MDL in Charleston, West
10 Virginia.

11 Q. What is the status of that MDL?

12 A. We have settlement programs going
13 but they're still active litigation. Yes, it's
14 active, although we've settled a fair number of
15 cases.

16 Q. What has your involvement been in
17 the settlement of those cases that have settled?

18 A. I've been overseeing the attorney
19 responsible for that.

20 Q. Any other MDL litigations that you
21 have overseen or handled day-to-day in-house at
22 Johnson & Johnson?

23 A. Ortho Evra. There are more, I just
24 can't recall them all. Ortho Evra is another one.

1 Q. Where was that?

2 A. New Jersey.

3 Q. What is the status of that MDL?

4 A. That is we've entered -- that's
5 been settled and disbanded.

6 Q. When did that occur?

7 A. I'm going to say six years ago,
8 seven years ago.

9 Q. Was there any MDL litigation
10 involving a product called Propulcid?

11 A. I mentioned that.

12 Q. I'm sorry.

13 A. Invokana is another one.

14 Q. Where was that?

15 A. I want to say Indiana but you know,
16 I have to look, now that I'm thinking about it.

17 Q. What is the status of that MDL?

18 A. I think we settled most of the
19 cases out of there. That's a prescription
20 product.

21 Q. Other than the MDL talc litigation
22 and the one that just began in New Jersey, and I
23 didn't really fully catch the name of the product,
24 are there any other MDL litigations that you have

1 been involved with at Johnson & Johnson that have
2 not been resolved or mostly resolved at this
3 point?

4 A. Again, some of these cases, I say
5 resolved, they're not fully resolved but you can
6 consider them resolved because unlike the talc
7 cases, all these have very short tales. In other
8 words, for a consumer, a medical device and a
9 prescription product, generally the injury occurs
10 shortly after implantation or after taking the
11 pill and so they're sort of a defined endpoint or
12 there's a label change that cuts off liability and
13 you know that subsequent to that there's a period
14 for injury is very short so talc, of course, is
15 very different from those.

16 And so when you are talking about
17 resolution of these MDLs, again, I was a little
18 sloppy in that term because while the bulk of them
19 may be settled, there may still be cases ongoing
20 but generally they're not going to be of great
21 magnitude.

22 Q. Just a couple more questions and
23 then I'm going to suggest that we take a break
24 before we switch subjects.

1 With regard to the settlements of
2 each of these MDL litigations that you've
3 identified, and I understand that not every
4 settlement has been complete, there's some
5 overhang, I do understand that, but with regard to
6 those claimants that have settled in the MDL
7 litigation, do you believe that those claimants
8 were treated fairly and equitably?

9 A. Often not -- I think it depends, I
10 think it depends. So the way that we do these
11 settlements, you know, even MDL settlements there
12 could be -- we generally settle with law firms for
13 their inventory. So, you know, I think it's hard
14 to describe those as fair and equitable when you
15 look at the whole entire process.

16 I think the MDL process itself is
17 flawed in that, I know there's been criticisms of
18 settlements in MDLs. They are -- we negotiate
19 what we can negotiate on those.

20 Q. Were there any settlements that you
21 participated in where you believed that there were
22 claimants that were being treated unfairly and
23 inequitably?

24 A. I wouldn't know. We often don't --

1 yeah, we don't get to the detail of each
2 individual claimant in these mass tort settlements
3 often, so what the lawyer does with his client is
4 not known to us.

5 Q. And in connection with the
6 claimants that did settle in the MDL litigations
7 with which you were involved at Johnson & Johnson,
8 did you believe that the claimants received
9 lottery-like results?

10 MR. JONES: Objection, if you
11 formed a view.

12 THE WITNESS: Sorry, can you repeat
13 the question again. With the people that
14 were settled?

15 BY MR. SILVERSTEIN:

16 Q. Yes. In connection with the claims
17 that were settled in the MDL litigations that you
18 participated in, did you believe that the
19 claimants were receiving lottery-like results in
20 the settlements?

21 MR. JONES: Same objection.

22 THE WITNESS: In the settlements, I
23 wouldn't know because, again, what the
24 plaintiff's lawyer does with his mass of

1 clients, I have no visibility to, for the
2 most part.

3 BY MR. SATTERLEY:

4 Q. Okay.

5 A. Settlements are very different in
6 an MDL than the trials, let's put it that way.

7 Q. Right.

8 MR. SILVERSTEIN: Okay. So I'm
9 going to propose that we take a ten minute
10 break, come back at 3:00. I'm going to
11 switch subjects and we're going to start
12 to look at some documents.

13 MR. JONES: Okay.

14 (Brief recess taken at 2:48 p.m.)

15 (Deposition resumes at 3:00 p.m.)

16 (Document marked for identification
17 as Kim Deposition Exhibit No. 6.)

18 BY MR. SILVERSTEIN:

19 Q. I'm going to share what will be
20 marked as Exhibit 6. Mr. Kim, I'm sharing on the
21 screen with you a document that the debtor has
22 produced bears Bate numbers LTL 954 through 1,049.
23 It's cover page is entitled North American Asset
24 Purchase Agreement among Johnson & Johnson

1 Consumer Companies, Inc. and Valeant
2 Pharmaceuticals International, Inc. dated as of
3 September 9th, 2012. I will scroll down. This is
4 the document as presented to us and I'm not going
5 to ask you any detailed questions about the
6 contents but I do want to scroll down just to see
7 if you're familiar with this document. If we get
8 to a point, Mr. Kim, you're satisfied you've seen
9 it, just let me know.

10 A. I've seen this document before.

11 Q. All right. When was the first
12 time, to the best of your recollection, you saw
13 this agreement?

14 A. Probably some time in 2013.

15 Q. And without revealing any
16 confidences, can you describe the context in which
17 you first saw this document?

18 A. It was in connection with Valeant
19 seeking indemnification.

20 Q. What is your understanding of what
21 this document is?

22 A. This is a Purchase Agreement where
23 Johnson & Johnson Consumer companies sold certain
24 assets to Valeant Pharmaceuticals and included in

1 that was Shower to Shower.

2 Q. Did you have any involvement in the
3 negotiation or preparation of this agreement?

4 A. I don't recall. I don't think I
5 did. From time to time I'm asked to do due
6 diligence on transactions, I just don't recall
7 whether I was part of this due diligence effort.

8 Q. Okay. Have you ever read this
9 agreement?

10 A. I read definitely portions of it.
11 I can't say that I read it cover to cover.

12 Q. I'm going to scroll down to the
13 indemnification section or at least the article
14 entitled indemnification, which appears on
15 LTL0999, there's an Article VIII entitled
16 "Indemnification and Limitation of Liability,"
17 scroll down. It begins on page 41. I'm going to
18 scroll down.

19 Again, not to ask you any specific
20 about the contents but only to ask whether this is
21 a section that you've read before and are familiar
22 with?

23 A. I have read it before. I was
24 familiar with it at one time.

1 Q. For what period of time were you
2 involved with any communications with Valeant
3 regarding indemnification?

4 A. We started discussing
5 indemnification I want to say 2017 or so. It
6 resulted in a clarification of this section but I
7 was involved in the negotiations and on that
8 issue.

9 Q. If you could, what did Valeant
10 describe its position as to indemnification to be?

11 A. I believe it wanted indemnification
12 for all liability, including after they purchased
13 the product. So I think originally the
14 indemnification period ended on -- with respect
15 to -- we were going to indemnify them for all past
16 liabilities where JJCI sold the product and they
17 would be responsible for liabilities after they
18 sold the product and they wanted indemnification
19 for all product.

20 Q. And what position did JJCI convey
21 to Valeant with regard to that, prior to there
22 being a clarification that you described?

23 A. Prior to that we thought the
24 language suggested that we -- our position was

1 that it ended upon -- JJCI would only be
2 responsible for product that it had sold.

3 Q. In the communications between
4 Valeant and JJCI was there ever any communication
5 regarding Valeant receiving indemnification from
6 any entity other than JJCI?

7 A. I don't recall. I don't recall.

8 Q. With whom at Valeant did you
9 interact with as to indemnification, if anyone?

10 A. I can't remember his name. There
11 was an attorney in-house there that I communicated
12 with. They were also represented by Simpson
13 Thacher and we had dealings with them as well.

14 Q. Okay. I'm now going to close that
15 and now share in the chat a document that I've
16 marked as Exhibit 7 and now I'm going to share it
17 on the screen, Mr. Kim.

18 A. I'm sorry, going back to that old
19 question when I say at all times, basically what
20 I -- it's when -- the demarcation would be when
21 Valeant sold the product versus when JJCI sold the
22 product and so they wanted indemnification for the
23 time that Valeant sold the product as well.

24 Q. That's what I understood from your

1 answer.

2 A. Okay.

3 (Document marked for identification
4 as Kim Deposition Exhibit No. 7.)

5 BY MR. SATTERLEY:

6 Q. Okay. So I've now shared in the
7 chat and on the screen a document produced by the
8 debtor bearing Bates numbers LTL 0001050 to 57.
9 It's entitled Indemnification Agreement Execution
10 Version. I'm going to slowly scroll down so you
11 can be satisfied as to whether you've seen this
12 document before. I've now scrolled down through
13 page LTL10657.

14 Are you familiar with this
15 document, Mr. Kim?

16 A. I am, I am.

17 Q. What is Exhibit 7?

18 A. This is the modification of the
19 indemnification portion of the agreement that we
20 just saw.

21 Q. What was your role, if any, in the
22 preparation of this agreement?

23 A. I don't know who prepared it. I
24 reviewed drafts of this, of the agreement and

1 signed it.

2 Q. Were you involved with -- I believe
3 you said you were in negotiating the terms of
4 this?

5 A. Yes.

6 Q. Was it Mr. Ackermann who was
7 in-house counsel at Valeant with whom you dealt?

8 A. No. Ms. Ackermann was the GC who
9 signed it. I was dealing with one of her reports.

10 Q. I see. And -- withdrawn.

11 What is your understanding of where
12 Johnson & Johnson, speaking not for any particular
13 company but, as you put it, the enterprise and
14 Valeant or its successor, Bausch Health ended up?

15 MR. JONES: Mr. Kim, please,
16 Mr. Kim, object to the form of the
17 question. You may answer.

18 THE WITNESS: So the agreement
19 speaks for itself. You know, the
20 resolution was that there was a date up to
21 a date certain, if you go down I could
22 tell you what that date was, that we would
23 be responsible -- JJCI would be
24 responsible for to indemnify Valeant for

1 certain cause of action up through a date
2 certain, even though that date extended
3 past after the date that JJCI sold the
4 product. If you keep going down I can
5 tell you.

6 BY MR. SILVERSTEIN:

7 Q. Sure. I'm going to scroll down,
8 you tell me where you would like me to stop.

9 A. Hold on right there. So March 1st,
10 2020 would be the date.

11 Q. So this indemnification agreement
12 is by its terms made between Valeant Health
13 Companies, Inc. on the one hand and Johnson &
14 Johnson Consumer, Inc. and its affiliates,
15 collectively JJCI on the other; is that correct?

16 A. That's correct. And, you know, the
17 signature page just reminded me of something that
18 I want to correct about an answer I gave to
19 Mr. Satterley.

20 The question was did I hold any
21 other titles, and I did, I actually held two
22 additional titles. One was assistant secretary to
23 Johnson & Johnson and one was assistant secretary
24 to Johnson & Johnson Consumer, Inc. I also held

1 the title assistant secretary to Ethicon, Inc. and
2 Ethicon Endo Surgery, Inc. This just reminded me
3 that I did hold those positions as well.

4 Q. Okay. And which affiliates of
5 Johnson & Johnson Consumer, Inc. are parties to
6 this agreement?

7 A. If you go back to the original
8 agreement, I think that copies what was in the
9 verbiage of the original agreement, and if you
10 could do that, I have this recollection but I
11 don't -- if you could go back.

12 Q. I'm going to try to accommodate you
13 on that. Bear with me.

14 Do you see the original Valeant
15 agreement?

16 A. Yes.

17 Q. Tell me where you would like me to
18 go.

19 A. With what the parties are in the
20 first paragraphs. See the first whereas clause,
21 seller directly or indirectly through its
22 affiliates.

23 And then if you go to article, it's
24 definitions, I think we just included -- we just

1 copied the language of the affiliates language in
2 the original agreement.

3 Q. So the affiliates would include
4 Johnson & Johnson, the ultimate parent company?

5 A. I don't believe it would. I think
6 the affiliates are the people that actually had
7 rights in the products that were being sold so
8 there may have been products that other operating
9 companies would have owned, intellectual
10 properties, whatever, there might be some other
11 products that were part of an affiliate and what
12 this would do is encompass all that.

13 If it was Johnson & Johnson
14 generally, we would have the agreement marked as
15 the Johnson & Johnson agreement and then list
16 other affiliates, but the fact that this is JJCI
17 agreement talking about affiliates, it's really
18 just, you know, other companies, operating
19 companies that had product.

20 If you go up the first sentence.
21 Yeah, owns the rights so it's the affiliates that
22 are manufacturing, marketing, selling the product.

23 Q. So to the best of your
24 recollection, the use of the word affiliates in

1 the 2019 clarification was the same definition of
2 affiliate in the original 2012 agreement?

3 A. I think it was to encompass the
4 same people but, you know, I would have to go back
5 and review my notes. Sitting here today, that's
6 what I believe, but I haven't looked at this in
7 years.

8 Q. Are you able to identify here today
9 which affiliates of JJCI either parent companies,
10 subsidiaries, sister companies, would be included
11 within -- as parties to the indemnification
12 agreement?

13 A. I'd have to go back to the original
14 agreement and go through it.

15 Q. I understand. And my question to
16 you is as you sit here today, as you're answering
17 these questions right now, are you able to
18 identify the affiliates of JJCI that are parties
19 to the indemnification agreement that was marked
20 as Exhibit 7?

21 A. Then I'm happy to take a look at
22 the indemnification agreement and the original
23 agreement but it might take me a while.

24 Q. Without going back and studying

1 this agreement and the prior agreement, am I
2 correct you are not able to answer that question
3 as to which affiliates?

4 A. I'm happy to do it right now but if
5 you don't want me to do that, then sitting right
6 here today right now, I would have to, again,
7 without going back I wouldn't be able to answer
8 that question.

9 Q. Okay. Fair enough. And were there
10 any affiliates of JJCI, other than Johnson &
11 Johnson, Ethicon and Ethicon Industries that you
12 were authorized to sign on behalf of?

13 A. Janssen Pharmaceutical I think I
14 was also assistant secretary of.

15 Q. Any other Johnson & Johnson --
16 withdrawn.

17 Any other JJCI affiliates that you
18 had authority to enter into an agreement on behalf
19 of at the time that you executed this agreement?

20 A. I'm actually not sure. I would
21 have to go back to the corporate secretary's
22 office for the complete list.

23 Q. Okay. Very quickly going back --

24 MR. SILVERSTEIN: Jim, should I

1 proceed or would you like me to wait?

2 MR. JONES: I'm sorry, I was just
3 drawing a blind. The sun is setting
4 through my window, that was all. I was
5 within earshot but thank you, appreciate
6 it.

7 MR. SILVERSTEIN: Thank you.

8 BY MR. SILVERSTEIN:

9 Q. Mr. Kim, just very quickly
10 backtracking, and I'm going to really try not to
11 do that, but with regard to the MDL litigation,
12 have there been any settlement discussions of the
13 MDL that you're aware of?

14 MR. JONES: Let me object. Are you
15 speaking the MDL in which you are
16 representing folks on the steering
17 committee, that MDL?

18 MR. SILVERSTEIN: Yes, the talc
19 litigation. I'm only asking right now for
20 yes or no.

21 BY MR. SILVERSTEIN:

22 Q. Have there been settlement
23 discussions of the MDL talc litigation?

24 MR. JONES: And before you answer,

1 my objection is, Mr. Kim, I want you to
2 think about whether that's public or
3 confidential or not and whether you can
4 share it in this deposition. I assume
5 this deposition will become public, I just
6 don't know the answer to that.

7 THE WITNESS: Yes, so I think it is
8 confidential and I think, Mr. Silverstein,
9 your clients would know.

10 BY MR. SILVERSTEIN:

11 Q. I'm sorry, the question of whether
12 there have been settlement discussions, you're not
13 comfortable answering that for confidentiality
14 reasons?

15 MR. JONES: Mr. Kim, if you're not
16 comfortable, you need to say so.

17 THE WITNESS: Frankly, I would like
18 to consult counsel on that issue. I'm not
19 comfortable without speaking to counsel
20 about settlement negotiations, but,
21 Mr. Silverstein, I think your clients
22 would know if there were conversations.

23 BY MR. SILVERSTEIN:

24 Q. I understand but I'm asking you

1 questions today.

2 MR. JONES: So the answer is if
3 you --

4 MR. SILVERSTEIN: I can't force you
5 to answer so if you don't want to answer,
6 then that's your choice.

7 MR. JONES: I think he would like
8 to talk to counsel.

9 THE WITNESS: I'm not refusing to
10 answer. I have a legal question about the
11 question that I would discuss before I
12 answer that.

13 MR. SILVERSTEIN: Okay.

14 MR. JONES: So if you want us to do
15 that now we can or we can save that up for
16 the next break.

17 MR. SILVERSTEIN: Save it up for
18 the next break. I'm really not going to
19 be getting into too much detail on that, I
20 just had a couple questions.

21 MR. JONES: But my point is even
22 the fact of negotiations --

23 MR. SILVERSTEIN: I don't know that
24 and, like I said, I can't force him to

1 answer any questions he doesn't want to
2 answer. So we can carry forward.

3 BY MR. SILVERSTEIN:

4 Q. When was the first time, Mr. Kim,
5 that you had any contact with any attorney from
6 Jones Day regarding legacy talc litigation?

7 A. Well, recently, six months ago.

8 MR. JONES: Let me interrupt for a
9 moment. The company name or the
10 litigation itself?

11 MR. SILVERSTEIN: The subject of
12 the litigation.

13 BY MR. SILVERSTEIN:

14 Q. And I understand about the
15 presentation six months ago.

16 I'm asking the very first time,
17 whenever that was, maybe it was the presentation,
18 maybe it was earlier.

19 A. So a couple years ago there were a
20 bunch of law firms that came and spoke to us about
21 options to resolve this matter. I don't recall
22 whether Jones Day was part of that or not. They
23 may have.

24 It was in connection with we were

1 looking for also counsel to retain in the Imerys
2 bankruptcy and in that process there were lots of
3 lawyers with opinions on how we could resolve our
4 cases and I just don't recall whether Jones Day
5 was part of that but, if not, then it would have
6 been when they made their presentations.

7 Q. So if Jones Day was a part of that,
8 and I understand you don't remember, but if that
9 was the time when you first met with any
10 attorneys, it was after the Imerys bankruptcy
11 filing?

12 A. It was around the time of the
13 Imerys bankruptcy filing I guess.

14 Q. Okay. And is there anything that
15 you could look at that would refresh your
16 recollection as to which law firms that you met
17 with at that time?

18 A. I know it was Weil because we
19 retained Weil. I don't know whether if I would
20 have anything about Jones Day, whether they left
21 the presentation or not, I don't know.

22 Q. To the best of your recollection
23 when did Imerys file for bankruptcy?

24 A. I would have to look at a document

1 to see that.

2 Q. Do you recall which year that was
3 in?

4 A. I want to say it was three years
5 ago but that's easily ascertainable.

6 Q. Okay. So between the time of the
7 Imerys bankruptcy filing, and I'm not suggesting
8 that you spoke to anybody from Jones Day at that
9 time, but from that time through the time of the
10 presentation in late April did you have any
11 contact with any Jones Day attorneys?

12 A. I don't believe we did.

13 Q. When was the first time, if at all,
14 when you had any contact with Dr. Charles Mullen?

15 A. I think about two years ago.

16 Q. And I don't want you to disclose
17 anything confidential or privileged and so with
18 that instruction, can you describe the context in
19 which you first had contact with him?

20 A. It was in connection with the
21 Imerys bankruptcy.

22 Q. How many times have you, if at all,
23 met in person with Dr. Mullen?

24 A. I think I met with him once.

1 Q. When was that?

2 A. About two years ago.

3 Q. Okay. How many telephone
4 conversations or video conversations have you
5 participated in in which Dr. Mullen also
6 participated?

7 A. I don't believe I've had any
8 contact with Dr. Mullen since then.

9 Q. Okay. I'm going to now share with
10 you a document that I'm marking as Exhibit 8.
11 First I'll put it in the chat and now I'll share
12 it to the screen.

13 (Document marked for identification
14 as Kim Deposition Exhibit No. 8.)

15 BY MR. SILVERSTEIN:

16 Q. I'm sharing Exhibit 8, which is a
17 document produced by the debtor bearing Bates
18 numbers LTL 0019834 through 19837, it's entitled
19 Indemnification and Defense Agreement. And,
20 Mr. Kim, I'm going to scroll down and would like
21 you to review this only for the purpose of
22 determining if you have seen this document before?

23 A. Can you just go back up for a
24 second.

1 Q. Yes, tell me where you want me to
2 stop.

3 A. Okay, stop. So if you go back to
4 the top. I didn't know how long it was, now I
5 will read it. Thank you. If you go down further.
6 Go down further. Okay.

7 Q. Have you just read Exhibit 8 to
8 yourself now?

9 A. Yes.

10 Q. Was this the first time you had
11 read this document?

12 A. No, no.

13 Q. When was the first time?

14 A. Around the time that it was
15 executed. This is one of our early agreements,
16 indemnification agreements, yes.

17 Q. And what leads you to testify that
18 it was an early defense agreement?

19 MR. JONES: Sorry, he didn't say
20 defense agreement.

21 THE WITNESS: No, indemnification.

22 BY MR. SILVERSTEIN:

23 Q. I'm sorry, I apologize,
24 indemnification agreement.

1 A. The date of it and who signed it so
2 who was responsible for litigation at the time.

3 Q. So prior to December of 2016 there
4 had not been indemnification agreements or at
5 least not a large number of indemnification
6 agreements with retailers?

7 A. I can't recall when retailers
8 started tendering indemnification to us. I think
9 there was -- there may have been a handful early
10 on. I don't recall sort of the chronology of them
11 but, you know, this is -- as Mr. Satterley pointed
12 out, the vast majority of the ones now do not have
13 Shook representing the retailers, it's Barnes &
14 Thornburg. So this would have been one of the
15 early -- I say early, just relatively earlier than
16 the current ones we have.

17 Q. Well, that's what I'm trying to
18 figure out when is early, when is middle and when
19 is -- I know when current is, but when you use the
20 word early, what time period are you talking
21 about?

22 A. So I think 2016 is when, I think, a
23 lot of lawsuits began being filed so prior there
24 were some lawsuits. I think we talked earlier

1 about the Berg lawsuit but, you know, a number of
2 lawsuits started rising after the Fox verdict,
3 which I think was in around 2016 and so as more
4 lawsuits were filed, retailers started getting
5 sued, mostly to try to keep these cases in state
6 courts and try to I think divert jurisdiction, so
7 this would have been towards that period.

8 So this is December 2016, I can't
9 remember when the Fox verdict actually happened.
10 So I would say that, you know, the litigation tide
11 started in around 2016 so, you know, this would
12 correspond to that.

13 Q. So around 2016 is early and we're
14 in 2021, that's current and in between is
15 everything else in your chronology?

16 A. I'm not sure that's a scientific
17 way of looking at things.

18 Q. I'm just trying to understand sort
19 of the time frame in which you are thinking of
20 this.

21 A. Well, I think of it in terms of --
22 I think it's laid out pretty well in both the
23 information statement and my declaration.

24 I think the litigation, the number

1 of cases started rising after the Fox verdict,
2 which I think is 2016, so prior to that we had the
3 Berg case. After the Berg verdict there was cases
4 being filed but, you know, it really started
5 exploding in 2016.

6 Q. Okay. And what was your role, if
7 any, in the preparation or negotiation or
8 execution of this agreement?

9 A. So I was overseeing, again, the
10 attorneys with the day-to-day responsibility,
11 which at this time period was Denise Houghton John
12 O'Shaughnessy. Denise had the responsibility of
13 dealing with indemnification and so I oversaw
14 that.

15 Q. Did you approve the execution of
16 this agreement?

17 A. I think generally I would say yes,
18 I was aware that these agreements were being made.
19 I believe I read this agreement prior to it being
20 signed.

21 Q. Was this a standard form of
22 agreement during the early period as you've
23 described it?

24 A. I'm not sure if there was a

1 standard because at first there weren't a lot of
2 indemnification request tenders and so I think a
3 lot of this was being done case by case.

4 Q. Was there a time when it stopped
5 being case by case and it became standardized?

6 A. I think as we did more of these,
7 you know, it was -- it didn't make sense to sort
8 of change the form so my -- I think there is a
9 template that's used. There can be exceptions to
10 the template if there's negotiation but,
11 generally, it's off a template.

12 Q. And when was the template -- when
13 did the template start being used?

14 A. I have to go and look at the
15 various agreements to see.

16 Q. And how would you know whether any
17 agreement you looked at was the template or was
18 not the template?

19 A. I think it's pretty obvious. As
20 Mr. Satterley showed you, I think the template is
21 pretty uniform.

22 Q. So what Mr. Satterley showed you
23 earlier was a template agreement?

24 A. Well, it was from a template. So,

1 again, template is the basis, you know, that those
2 are the things that we, you know, believe were the
3 right clauses, but from time to time there are
4 modifications made.

5 Q. And I think we can both read that
6 in this particular case the indemnification was
7 provided both by Johnson & Johnson, the parent
8 company, and Johnson & Johnson Consumer Companies,
9 Inc. in this particular case?

10 A. In this particular case those are
11 the parties.

12 Q. And are there other cases during
13 the early period when Johnson & Johnson was party
14 to indemnification of talc lawsuits tendered by
15 retailers?

16 A. I don't think so. This was very
17 unusual so generally, you know, we often get
18 requests for Johnson & Johnson to act as a
19 guarantor, basically, and generally we try to
20 avoid that. I'm not sure, I can't recall why in
21 this particular instance we basically allowed
22 that, but, generally, how negotiations go would be
23 we resist basically having J&J guarantee these
24 types of agreements, but in this case I guess it

1 got through.

2 Q. And so if Johnson & Johnson and
3 Johnson & Johnson Consumer, Inc. are co-obligor in
4 any indemnification agreement, the way you think
5 of it Johnson & Johnson Consumer, Inc. is the
6 obligor, Johnson & Johnson is the guarantor?

7 MR. JONES: Object to form and
8 foundation.

9 BY MR. SILVERSTEIN:

10 Q. Is that the way you were thinking
11 of it?

12 A. The agreement is what the agreement
13 is. I have to go back and think about what my
14 actual recollection is for every -- for each of
15 these, you know.

16 Q. Okay. Well, it so happens that we
17 have a few others so let's now look at what I've
18 marked as Exhibit 9. I'm going to first share
19 that in the chat.

20 (Document marked for identification
21 as Kim Deposition Exhibit No. 9.)

22 BY MR. SILVERSTEIN:

23 Q. And now, Mr. Kim, I'm going to put
24 it on the screen for you. I'll show you Exhibit 9

1 anyway but it's not what I had in mind.

2 So, Mr. Kim, I'm sharing with you
3 Exhibit 9, it's an e-mail thread that the debtor
4 produced bearing Bates numbers LTL 0002073 through
5 81. I'm going to scroll down slowly first to give
6 you an opportunity to determine if you've seen it
7 before and then I'll show you any portion that you
8 want to focus on.

9 Mr. Kim, is this e-mail thread
10 familiar to you?

11 A. I don't recall this thread, no.

12 Q. Okay, all right. That's fair. I'm
13 going to focus you -- I understand you may not
14 recall this, you may not have seen it before.

15 There's a reference in this top
16 e-mail on August 22, 2017 to a Johnson & Johnson
17 Defense and Indemnity Agreement.

18 Do you have any understanding as to
19 what that refers to?

20 A. No.

21 Q. Okay. Was there any template that
22 Johnson & Johnson referred to as the Johnson &
23 Johnson Defense and Indemnity Agreement?

24 A. I don't believe so.

1 Q. To the best of your knowledge, was
2 there any template that retailers referred to in
3 shorthand as the Johnson & Johnson Defense and
4 Indemnity Agreement?

5 A. I don't know. I've never seen that
6 verbiage before.

7 Q. All right. I'm going to now show
8 you a document that I marked as Exhibit 10 and I'm
9 going to put it into the chat.

10 (Document marked for identification
11 as Kim Deposition Exhibit No. 10.)

12 BY MR. SILVERSTEIN:

13 Q. And now I will share it on the
14 screen with you, Mr. Kim.

15 Exhibit 10 is a document produced
16 by the debtor bearing Bates numbers LTL 0020917
17 through 18. I'm going to scroll down slowly and,
18 of course, give you the opportunity to go back and
19 review anything you like more carefully but now
20 just I would like you to review it to determine if
21 you've seen it before?

22 A. I don't recall whether I saw this.
23 I may have.

24 Q. Was Exhibit 10, to your knowledge,

1 created from a template?

2 A. I don't know. This is Shook
3 Hardy's letter. Can you keep going down.

4 Q. Yes, tell me where you would like
5 me to stop.

6 A. Stop right there. Keep going down.
7 I don't recall whether this was a template Shook
8 was using. It could be they were modeling these
9 after a prior agreement that they had used, sort
10 of cut and paste of that. I just don't know.

11 Q. And if you were asked to go back
12 and determine when the template was created, what
13 would you do to determine whether a Shook Hardy
14 agreement letter was created from the template or
15 not?

16 A. I would have to ask Shook Hardy.

17 Q. Who did you ask at Shook Hardy as
18 to whether they started to work off of a template?

19 A. Can I ask who signed this, is this
20 Deb Moeller? I'm not sure that she's still there.

21 My first stop would be Kat Frazier,
22 who handled a lot of litigation currently.

23 Q. So you would not want to go back
24 historically to find out when the template was

1 used?

2 A. I'm not sure what that question
3 means.

4 Q. It sounds like Ms. Frazier is being
5 used currently for the litigation. I'm asking
6 about when the template first started being used?

7 A. I think she would know if there was
8 a template and whether it was being used.

9 Q. When did she start working on the
10 litigations?

11 A. She's been involved since the
12 beginning of the Bird case.

13 Q. Okay. So you would rely on
14 Ms. Frazier to identify when Shook Hardy began to
15 work off a template?

16 A. When and if. You say a template
17 but, again, I think like a lot of things, it's cut
18 and paste. So I don't know whether you call that
19 a template but if you have a prior agreement,
20 instead of starting from scratch, you might just
21 cut and paste from that agreement, so whether you
22 call that a template or not, you know, you would
23 have to ask her what they consider.

24 Q. When you referred to it as a

1 template -- when you referred to letters,
2 indemnification agreements being created from a
3 template what were you referring to?

4 A. I think as you do this cut and
5 pasting it becomes apparent, so maybe it's a de
6 facto template. Basically, as you did more of
7 these agreements, they become uniform or
8 standardized.

9 So, again, I would say that the
10 genesis of this and what versions there were and
11 when they used particular versions, I think that's
12 something that Shook Hardy would know.

13 Q. And from looking at this now you're
14 unable to determine whether this letter was cut
15 and paste from prior versions or not?

16 A. Yeah, I couldn't tell just by
17 looking at one letter.

18 Q. I see. Okay. But whether this was
19 created anew or whether it was cut and paste, you
20 would agree that in this case as well, the
21 indemnification was from both Johnson & Johnson
22 and Johnson & Johnson Consumer, Inc.?

23 A. Yeah, I think what's going on
24 because you call it Johnson & Johnson defendants,

1 my guess would be that they're all named
2 defendants in the action so they're just using all
3 the defendants in the action as parties.

4 Q. And Shook Hardy was authorized on
5 behalf of both Johnson & Johnson and Johnson &
6 Johnson Consumer, Inc. to execute this letter; is
7 that correct?

8 A. Yes.

9 Q. Let's move forward. I'm going to
10 share now in the chat a document marked as Exhibit
11 11.

12 (Document marked for identification
13 as Kim Deposition Exhibit No. 11.)

14 BY MR. SILVERSTEIN:

15 Q. And I'm now going to share this
16 with you on the screen, Mr. Kim. Exhibit 11 is a
17 document produced by the debtor. Just going to
18 scroll down for a second, Mr. Kim, just to confirm
19 the numbers. Yes, this is a document bearing
20 Bates numbers 20766 to 67. I'm going to now go
21 back to the top and scroll down for you, Mr. Kim.

22 A. Is this the same letter?

23 Q. Well, they do look similar but
24 they're not the same letter?

1 A. I thought Richard Gering was on the
2 other letter too but I may be wrong. I'm just
3 looking at the name of the recipient.

4 Q. So I'm now going to show you
5 Exhibit 10 so you will see that this pertains to
6 Kim Knight versus Johnson & Johnson, et.al.

7 A. I see.

8 Q. And Exhibit 11 is to the same
9 recipient from the same person, it pertains to
10 another case, I guess called Harris and Harris
11 versus Johnson & Johnson.

12 Do you see that?

13 A. Yes, yes.

14 Q. Let me scroll down for you. Are
15 you familiar with this document?

16 A. I see it. I don't know whether I
17 saw this particular document before. I think I've
18 seen versions like this.

19 Q. Is it fair to say that Exhibits 10
20 and 11, based on your review, appear to be cut and
21 paste from either one to the other or from
22 something else?

23 A. Yeah, of course, it goes to the
24 same recipient and when you're dealing with

1 multiple indemnifications to the same recipient,
2 generally they want the same terms and so it would
3 make sense to have different versions going to the
4 same person. And, frankly, the issue about
5 Johnson & Johnson, Johnson & Johnson Consumer
6 Companies, if you could down further and having
7 all these people be parties is because we're
8 actually asking for a waiver -- go back a little.

9 Q. Tell me where you would like me to
10 stop.

11 A. Stop right there. If we go down.
12 We're asking for a waiver of conflicts here so we
13 want to have the waiver to be as broad as
14 possible. So we don't want them bringing up
15 issues because there might be a conflict and not
16 waive with respect to any one of these defendants,
17 which is why all the defendants are in there. So
18 this is -- these terms are uniform because you
19 can't ask a single indemnitee to sign the
20 agreement with different terms in them, so that's
21 why these are all similar.

22 Q. I see. So was there a period of
23 time at least in 2017 when Exhibits 10 and 11
24 represented the standard indemnification of

1 Walgreens with respect to talc litigation?

2 A. Again, I think the best people to
3 answer that would be people at Shook Hardy, but,
4 again, it would not make sense to send another
5 letter with different terms due to the same
6 recipient.

7 Q. That may be a good segue to the
8 next document. So now I'm going to share in the
9 screen. I'm going to share Exhibit 12. I've now
10 shared that in the chat and, Mr. Kim, I'm going to
11 share that with you.

12 (Document marked for identification
13 as Kim Deposition Exhibit No. 12.)

14 BY MR. SATTERLEY:

15 Q. Mr. Kim, you should have on your
16 screen a letter produced by the debtor bearing
17 Bates numbers LTL 20776 through 77.

18 Are you familiar with this
19 document?

20 A. I'm not sure if I saw this
21 particular document but I'm familiar with
22 documents like this, yes.

23 Q. Okay. When you say "documents like
24 this" what do you mean?

1 A. So, generally, indemnification
2 agreements I've been looking at from time to time,
3 you know, over time.

4 Q. So documents like this refers to
5 indemnification documents?

6 A. To retailers, yes.

7 Q. You are aware that the contents of
8 this letter from Shook Hardy to Walgreen is
9 different from the contents of the prior letters
10 we were just looking at from 2017?

11 A. Yes, appears different.

12 Q. Yeah. And did there come a point
13 in time where the template or the cutting and
14 pasting changed from one set of terms to another?

15 A. I'm actually not sure. Can you
16 keep going down. I just want to see the rest of
17 this. Hold on right there. Keep going. Thank
18 you.

19 Q. Was there a point in time, Mr. Kim,
20 where the template or cutting and pasting or
21 however you want to think about it changed?

22 A. I'm actually not sure. Barnes &
23 Thornburg now will be representing the retailers.
24 At some point the management, the day-to-day

1 management of the cases switched from Denise
2 Houghton and John O'Shaughnessy to Andrew White.
3 I don't recall what may have happened in terms of
4 reviewing the documents, these identification
5 agreements and whether there was some changes made
6 specifically at or why they were changed. I'm not
7 certain of that.

8 Q. Was there a point in time when
9 there was an institutional decision that Johnson &
10 Johnson the parent no longer would provide
11 indemnification to Walgreens?

12 A. I don't know whether there was an
13 institutional decision made or practically it
14 became unnecessary. Again, I'm not sure what the
15 genesis of that change in language was.

16 Q. When you say "practically it became
17 unnecessary", what do you mean?

18 A. That, for whatever reason, if they
19 didn't need to seek a waiver, for example, on
20 Johnson & Johnson, you have to remember the
21 earlier drafts, you know, the waiver language is
22 broad to encompass all J&J defendants or consent
23 to waive. I just don't know what the genesis of
24 this change was.

1 Q. Do you recall any occasion on which
2 you were involved with a decision to change the
3 form of the indemnification letters provided to
4 retailers to exclude Johnson & Johnson as a party
5 to the indemnifications?

6 A. There was an internal project done
7 for all indemnification letters so, as you can
8 imagine, with all the mass torts that you went
9 through, we had indemnification letters all the
10 time from various parties and there was an attempt
11 to standardize what we're asking for. I'm not
12 sure whether this came out of that process but
13 that may be an explanation, I just don't recall.

14 Q. Was that process undertaken after
15 all law firms came in after the Imerys bankruptcy
16 filing?

17 A. I don't think it was related to
18 that. It may --

19 Q. I wanted to say I was using it as a
20 benchmark, not necessarily connecting the two.

21 A. I don't recall when I initiated
22 that project. It was not talc related, it was
23 general to all the product liability cases.

24 Q. Are there any -- sorry.

1 A. That's just conjecture. You know,
2 I'm not sure how this change happened.

3 Q. Are there any projects you have
4 undertaken that have been calculated?

5 A. I'm sorry?

6 Q. You wanted to make the point that
7 this wasn't a calculated project. Are there
8 projects that you've initiated that are
9 calculated?

10 MR. JONES: Adam, I think you
11 misheard him. He said "related."

12 MR. SILVERSTEIN: I'm sorry. I did
13 mishear, I apologize.

14 THE WITNESS: I'm not sure what
15 calculated --

16 MR. SILVERSTEIN: I thought you
17 said calculated.

18 THE WITNESS: The project itself is
19 unrelated to the talc litigation. It was
20 just a general project for all
21 indemnification agreements.

22 BY MR. SILVERSTEIN:

23 Q. I see. And what year was that
24 project undertaken?

1 A. I think it must have been 2019,
2 2020.

3 Q. And is it your best recollection
4 that after the undertaking of this project, that
5 the terms of the indemnification letters that went
6 to retailers was modified from earlier iterations?

7 A. To the extent that they needed to
8 be, I guess. The project was to try to get I
9 think what we called it was best practices for
10 indemnification letters and so some people were
11 already using best practices, you know, so I
12 think, you know, it was something that we put
13 together and then individual attorneys took from
14 it what they wanted, but there probably was a
15 review of the indemnification letters, each
16 attorney was using, to try to make sure that they
17 were using best practices.

18 Q. And who was involved in the project
19 that you initiated?

20 A. I want to say Aviva Wein, who
21 reported to me. Andrew White was actually part of
22 it, which why I think this may have something to
23 do with it because at this time Andrew White was
24 involved in the talc litigation but was also

1 involved in the project looking at indemnification
2 to retailers but those were the principal lawyers
3 that were responsible for that project.

4 MR. SILVERSTEIN: Okay. I'm going
5 to switch subjects and, therefore, suggest
6 a short break, if that's okay. I'm happy
7 to keep going but it would make sense
8 maybe for five minutes.

9 MR. JONES: I think we should take
10 a break. It's been more than another
11 hour. And I'm going to ask Madame Court
12 Reporter Peg to let us know where we stand
13 on the running time. Take five, Adam.

14 (Brief recess taken at 4:06 p.m.)

15 (Deposition resumes at 4:15 p.m.)

16 BY MR. SATTERLEY:

17 Q. Mr. Kim, other than the agreement
18 that was defined in the interrogatories responses
19 as the 1979 transfer agreement, are there any
20 other agreements that you believe reflect a
21 contract by Johnson & Johnson Consumer, Inc. or
22 any of its predecessors or successors to assume
23 liabilities and/or indemnify Johnson & Johnson,
24 the parent, in connection with talc lawsuits?

1 MR. JONES: Object to form.

2 THE WITNESS: There's also the
3 agreement in the LTL papers to indemnify
4 J&J.

5 BY MR. SILVERSTEIN:

6 Q. And which agreement is that, sir?

7 A. I think it's the merger support
8 agreement at least. There might be others. But I
9 understand generally that there is a
10 indemnification obligation for LTL to indemnify
11 new JJCI and J&J for any talc liabilities.

12 Q. So as part of the devisive merger,
13 LTL executed an agreement that indemnified new
14 JJCI and Johnson & Johnson for talc liabilities?

15 A. Actually, cross-indemnity. So J&J
16 and new JJCI indemnify LTL for non-talc liability
17 get sued as well. So all the talc liabilities go
18 to LTL, they indemnify J&J if they get sued for it
19 and otherwise if LTL gets sued for non-talc
20 liabilities, then new JJCL would take care of
21 that.

22 Q. Any other agreements?

23 MR. JONES: Object to form.

24 BY MR. SILVERSTEIN:

1 Q. Any other agreements under which
2 the debtor or Johnson & Johnson Consumer, Inc.
3 and/or any of its predecessors or successors
4 agreed to indemnify Johnson & Johnson for
5 talc-related liabilities that you are aware of?

6 MR. JONES: Form, objection.

7 THE WITNESS: So there are
8 documents that evidence that. I'm not
9 sure whether you consider those agreements
10 or not but, you know, there are, you know,
11 the internal documents, annual reports,
12 SEC filings that show that all talc
13 liabilities are being assumed by or were
14 assumed by JJCI so those I would include
15 but, you know, I don't know if you
16 consider those agreements or not.

17 BY MR. SILVERSTEIN:

18 Q. Well, it's hard for me to know
19 without knowing what they are.

20 What are you referring to?

21 A. Well, I'm referring to documents
22 that show that -- for example, the documents that
23 I believe Mr. Lisman showed that shows the course
24 of conduct and dealings that show the agreement

1 that JJCI is responsible, has assumed all the
2 liability for all talc issues.

3 Q. Okay. So I want to try to get them
4 out on the table so I can at least between now and
5 next week determine whether I agree with you or
6 not.

7 A. Sure.

8 Q. So there's the Excel spreadsheets
9 that Mr. Lisman discussed yesterday.

10 What else falls into the category
11 of documents evidencing the agreement to indemnify
12 or assume liabilities that you were thinking of?

13 A. The board minutes.

14 Q. Okay. What else?

15 A. Well, the SEC filings that show
16 that the board minutes happened, what was
17 described in the board minutes took place, annual
18 reports that showed --

19 Q. I'm only going to interrupt only
20 for the purpose of just getting clarification on
21 this and I'm going to ask you to please continue
22 to tell me all the other evidence but just so
23 while we're on it, with regard to the SEC filings
24 where should I be looking in the SEC filings to

1 see the corroboration?

2 A. Well, there are SEC filings that
3 showed the transactions that were in the board
4 minutes took place. There are SEC filings that
5 show the allocation that talc liability was
6 allocated to the consumer group.

7 Q. Okay. And what -- I'm sorry to
8 interrupt, it's just that --

9 MR. JONES: Adam, I'm going to
10 insist, let him finish his answer. It's
11 not fair to the witness.

12 BY MR. SILVERSTEIN:

13 Q. Go ahead and give your answer and
14 then we'll go back over each item. Go ahead.

15 A. Annual reports that show, you know,
16 which company was responsible for what products.
17 Generally course of conduct, course of dealing
18 between JJCI and J&J on these liabilities.

19 Q. Before I go back over what you just
20 testified to, are there any other documents that
21 you're aware of that evidence the course of
22 conduct or the agreement that you're testifying
23 to?

24 MR. JONES: Object to form.

1 THE WITNESS: There may be.

2 Sitting here right now it's really the
3 financial statements, internal, you know,
4 internal documents about responsibility
5 and I think that's it. I can't think of
6 any others sitting here right now. There
7 may be others, I just can't think of any.

8 BY MR. SILVERSTEIN:

9 Q. Have all of the documents that you
10 have just referred to been turned over in this
11 lawsuit, in this adversarial proceeding, to the
12 best of your knowledge?

13 A. I'm not -- I don't know about the
14 annual reports and SEC filings because they're
15 public documents.

16 Q. And to locate where in the SEC
17 filings there's corroboration of the allocation
18 between Johnson & Johnson and Johnson & Johnson
19 Consumer, Inc. as to talc liabilities, where
20 should I look for that?

21 A. I think it's in the segment
22 sections. There's a section of the report that
23 gives the sector financials, so in the consumer
24 sector section.

1 Q. Is there anyplace else I should
2 look in the SEC filings to evidence the
3 corroboration?

4 A. I think in certain older filings it
5 lists subsidiaries and what they're responsible
6 for in terms of what products they're responsible
7 for and you will see the baby products, you know,
8 and powders listed there.

9 Q. Any other documents that come to
10 mind that corroborate the agreement by Johnson &
11 Johnson Consumer, Inc. or any of its predecessors
12 or successors to indemnify or assume liabilities
13 of Johnson & Johnson with respect to talc?

14 MR. JONES: Objection, asked and
15 answered.

16 THE WITNESS: I think that's it,
17 that's all I can recall. We talked about
18 the '78 agreement, the transfer agreement
19 that we had spoken about.

20 BY MR. SILVERSTEIN:

21 Q. Okay. Let's carry on. I'm going
22 to share with you a document marked as 13 -- and
23 just before I do, one other question comes to mind
24 on this topic, I don't recall seeing any reference

1 in your -- either of your declarations about the
2 merger support agreement or any other agreement
3 executed in October of 2021 as being something
4 that the debtor is relying on in the context of
5 supporting its request for a preliminary
6 injunction. And it may be that I missed it but is
7 that -- is it the case that the debtor is relying
8 on the merger support agreement for the purposes
9 of the preliminary injunction motion?

10 MR. JONES: Object to foundation,
11 may call for a legal conclusion. Mr. Kim,
12 if you can share, you can.

13 THE WITNESS: I would have to go
14 back into my declaration and the
15 preliminary injunction papers.

16 BY MR. SILVERSTEIN:

17 Q. Okay. And without going back and
18 reading what's been written before, you are not
19 able to answer that?

20 A. I would defer to what's in the
21 papers and I thought we were but I would have to
22 go back and see.

23 MR. SILVERSTEIN: Now, without
24 further adieu, I'm going to share in the

1 chat Exhibit 13 and on the screen.

2 (Document marked for identification
3 as Kim Deposition Exhibit No. 13.)

4 BY MR. SILVERSTEIN:

5 Q. Mr. Kim, are you -- let me withdraw
6 that. So Exhibit 13 is a document the debtor has
7 produced, it was attached to your first day of
8 declaration, this particular version bears Bates
9 numbers LTL 0001 through 20, it's entitled Amended
10 and Restated Funding Agreement. I'm going to
11 scroll down and please let me know if and when you
12 reach a point where you are satisfied that you are
13 familiar with this agreement.

14 A. I'm familiar with this document.

15 Q. Okay, very good. What was your
16 involvement, if any, in the negotiation or
17 preparation of this agreement?

18 A. I was involved in discussions
19 concerning the agreement. I did not negotiate it
20 or draft it.

21 Q. Who did negotiate it, to your
22 knowledge?

23 A. I don't know. I think internally
24 it would have been -- because it's an agreement

1 among J&J subsidiaries and J&J, it would have been
2 looked at just for fairness. So I'm not sure
3 negotiation is the right word, but, yeah, I'm
4 actually not sure who actually opined on that.

5 Q. Who looked at it for fairness?

6 A. Again, I'm not sure who was
7 responsible for that. It would have been the, you
8 know, internal review.

9 Q. Was any external fairness opinion
10 received in connection with any aspect of the
11 October transactions?

12 A. I'm not aware.

13 MR. JONES: Object to foundation
14 but you can answer.

15 BY MR. SILVERSTEIN:

16 Q. To your knowledge?

17 A. I'm not aware of any.

18 Q. Okay. I guess it's fair to say
19 that you have never seen an external fairness
20 opinion relating to any of the transactions that
21 occurred in October of 2021?

22 A. I have not.

23 Q. Okay. And is there a department or
24 group that is tasked with internal fairness

1 reviews?

2 A. I do not know.

3 Q. Well, in this particular case of
4 the transactions that transpired in October of
5 2021 that led to the formation of the debtor, is
6 there anyone that you're aware of who was involved
7 in the internal fairness review?

8 A. Well, all parts of the transaction
9 have to be approved internally so there is a
10 process for doing that, I'm just not aware of,
11 sitting here right now, who had done that.

12 Q. And what is your understanding of
13 the process?

14 A. That any transaction needs to be
15 reviewed by certain levels of executives in order
16 for the transaction to be approved.

17 Q. So the approval by whatever the
18 necessary levels are is the internal fairness
19 review that you're referring to?

20 A. Yes.

21 Q. And how is the internal fairness
22 review different from any other approval process
23 involving a transaction in which a Johnson &
24 Johnson company is involved with, to the best of

1 your knowledge?

2 MR. JONES: Object to form.

3 THE WITNESS: I don't think it
4 differs.

5 BY MR. SILVERSTEIN:

6 Q. Okay. So to the best of your
7 knowledge there is no different review undertaken
8 with regard to inter-company transactions than
9 there is with regard to transactions between a
10 Johnson & Johnson entity and an outside entity?

11 A. So when I said -- when I brought up
12 the fairness -- internal fairness issue I was
13 distinguishing that from negotiation. In other
14 words, when you're dealing with a third party
15 they're negotiated terms. When it's an internal
16 transaction, then it's just -- you know, there's
17 no negotiation, people are just looking at it for
18 whether it's fair or not.

19 Q. I see. And the fact that the
20 transaction took place indicates that the
21 transactions cleared the internal fairness
22 process?

23 A. Yeah, you see a term internal
24 fairness process. It went through the approval

1 process is how I would say it.

2 Q. Okay. And, again, if this -- you
3 testified to this with Mr. Satterley, I do
4 apologize, I paid attention but I don't remember
5 everything.

6 Who, to the best of your knowledge,
7 was involved in the internal approval process?

8 A. Again, yeah, I would defer to -- I
9 have to look at a document to refresh my
10 recollection as to who was involved but, you know,
11 I think -- I'm not -- in the closing documents so,
12 you know, documents were signed approving these
13 transactions and the people who signed those
14 documents would have been the people involved.

15 For example, the board of Janssen
16 Pharmaceutical, which is one of the parent
17 companies, had to approve that transaction in
18 order to have the subsidiary formed underneath
19 and, likewise, with this amended funding
20 agreement, you know, it was -- can you go to the
21 bottom of it for signatories.

22 So all these people would have had
23 to review and approve the transaction. Sorry, so
24 if you could go up. So right there, you can stop.

1 Michelle Ryan, who is the treasurer
2 of Johnson & Johnson, had to execute this
3 agreement. Michelle Goodridge, the president of
4 JJCI, would have had to have approved this
5 agreement so they're the ones that would be
6 responsible for looking at the terms and approving
7 this and, of course, on the LTL side it's Bob
8 Wuesthoff.

9 Q. And which attorneys, to your
10 knowledge, were involved in the preparation of
11 this document, either in-house or outside?

12 A. I think the principal attorney
13 involved would have been Chris Andrew.

14 Q. And was any outside counsel
15 involved, to the best of your knowledge?

16 A. Jones Day was involved. Could you
17 go further up. I just want to see what other --

18 Q. Tell me where you would like me to
19 stop.

20 A. Right there, stop. Can you go down
21 for the notices.

22 I believe Jones Day was involved.

23 Q. Was there any attorney in
24 connection with this funding agreement

1 representing the interests of Johnson & Johnson,
2 to your knowledge?

3 A. I'm sorry, outside attorney or I'm
4 not sure what you're asking.

5 Q. Any inside, outside, any other
6 attorney, any attorney whatsoever representing the
7 interests of Johnson & Johnson?

8 A. I think there were numerous
9 attorneys involved. Chris Andrew is one, he is an
10 attorney that does these types of transactions so
11 he was sort of leading this but other attorneys
12 were involved.

13 Q. Okay. Was there any attorney, to
14 your knowledge, utilized or engaged to represent
15 the interests of Johnson & Johnson in the
16 preparation or execution of this amended and
17 restated funding agreement?

18 MR. JONES: Object to foundation.

19 THE WITNESS: I think I said there
20 were lots of attorneys involved.

21 BY MR. SILVERSTEIN:

22 Q. Well, just so that we're all
23 understanding each other, what I'm trying to
24 figure out is whether there were attorneys for one

1 party, attorneys for another party and attorneys
2 for the third party and maybe we can skip through
3 all that if you can't identify one from the other?

4 A. I would say there were attorneys
5 looking out for all the parties. Again, this is
6 an internal funding agreement. It's not a
7 negotiation, per se, between adverse parties.

8 You know, I think people were --
9 there were attorneys involved in the transaction
10 to, you know, to help make sure that everything
11 was appropriate and, you know, done correctly.

12 Q. Okay. To the best of your
13 knowledge, all the attorneys involved with this
14 funding agreement were representing the interests
15 of all of the parties to the agreement?

16 MR. JONES: Object to foundation
17 and form.

18 THE WITNESS: To the extent -- it's
19 a little -- I agree they were all looking
20 out because at the time this agreement was
21 really put together it was -- while the
22 process was happening, the divisional
23 merger process was happening.

24 So I would say all the attorneys

1 were looking at this from a joint
2 perspective to make sure that all
3 processes were being followed and the
4 agreement was appropriate.

5 BY MR. SILVERSTEIN:

6 Q. Okay. I'm now going to share what
7 will be Exhibit 14, first to the chat.

8 MR. JONES: So we could see --

9 MR. SILVERSTEIN: I understand.

10 MR. JONES: I just wanted you to
11 know that.

12 MR. SILVERSTEIN: Thank you.

13 Exhibit 14 is being shared to the chat and
14 now, Mr. Kim, I'm going to share it to the
15 screen.

16 (Document marked for identification
17 as Kim Deposition Exhibit No. 14.)

18 BY MR. SILVERSTEIN:

19 Q. Mr. Kim, one question before I ask
20 you to turn your attention to this particular
21 document, did you recall anyone on the board of
22 Janssen who was involved in the internal approval
23 process? I understand you want to refer to
24 documents, I'm just asking to the best of your

1 recollection as you sit here now?

2 A. No, I was not involved in that
3 process so my information comes from the document.

4 Q. Okay. Let me ask you this: You
5 are a representative of the debtor today, correct?

6 A. Yes.

7 Q. You've been a representative of the
8 debtor since you were appointed chief legal
9 officer, correct?

10 A. Yes.

11 Q. Do you have confidence that the
12 series of transactions that were entered into in
13 October of 2021 were fair to the debtor?

14 A. Yes.

15 Q. And what is it that gives you that
16 confidence?

17 A. A review of the terms and my
18 experience and understanding of the litigation and
19 my discussions with the folks that help put the
20 transaction together. Advice of counsel.

21 Q. Which counsel are you referring to
22 for that level of confidence?

23 A. Jones Day.

24 Q. Does the fact that the transactions

1 cleared the approval process at Johnson & Johnson
2 contribute to the confidence that you have in the
3 fairness of the transaction?

4 A. Yeah, I assume it does because the,
5 you know, if the process was followed, I believe
6 that would result in a transaction that's
7 appropriate.

8 Q. I can represent to you, Mr. Kim,
9 that I will certainly scroll down, if you don't
10 believe me, that on the screen now and what was
11 shared in the chat is a true and correct copy of
12 what the debtor filed as the First Day Declaration
13 that you executed.

14 You're familiar with this, correct?

15 A. Yes.

16 Q. I just want to focus your attention
17 on a couple of paragraphs about the funding
18 agreement that we just looked at. I'm going to
19 put paragraph 27 on the screen for you, just read
20 it to yourself and let me know when you're through
21 and let me know when you need me to scroll down
22 for you. And if there's any other paragraphs that
23 would help you, let me know. I want to focus you
24 on 27 but if there's more context you would like,

1 just let me know.

2 A. Once I hear the question, there
3 might be.

4 Q. Okay. So in paragraph 27 you
5 attest that the funding agreement requires new
6 JJCI and J&J to, up to the full value of new JJCI,
7 funds amount necessary, A, to satisfy the debtor's
8 talc related liabilities at any time whether is no
9 bankruptcy case and, B, in the event of a Chapter
10 11 filing, to provide the funding for a trust in
11 both situations, to the extent that any cash
12 distributions received by the debtor from Royalty
13 A & M are insufficient to pay such costs and
14 expenses. And, further, in the case of the
15 funding of a trust, the debtor's other assets are
16 insufficient to provide that funding.

17 Do you see that?

18 A. I do.

19 Q. And that was your understanding of
20 the requirement of Johnson & Johnson and new JJCI
21 to fund under the funding agreement, correct?

22 A. It is.

23 Q. Okay. And am I correct that your
24 understanding is that Johnson & Johnson is

1 required to fund, to the extent that the debtor's
2 assets are insufficient, such amounts as would be
3 required to fund the trust to pay for all allowed
4 bankruptcy claims approved under a plan?

5 MR. JONES: Object to the form of
6 the question, mischaracterizes.

7 THE WITNESS: I would defer to the
8 language that's there. It's very specific
9 as to what the requirement is.

10 BY MR. SILVERSTEIN:

11 Q. Do you have any understanding as to
12 whether or not Johnson & Johnson would be
13 required, under the funding agreement, to fund any
14 amounts the debtor does not have in order for the
15 trust to be able to pay for all claims allowed
16 under a plan of reorganization?

17 MR. JONES: Same objection, the
18 form.

19 THE WITNESS: I'm not understanding
20 what your -- the distinction is. A, this
21 is up to the limit of the value of new
22 JJCI so, you know, that's -- I don't think
23 you said that in your question but, again,
24 I would defer to the statement in the

1 funding agreement for the terms that are
2 laid out quite specifically.

3 BY MR. SILVERSTEIN:

4 Q. Okay. Do you have any
5 understanding as to -- withdrawn.

6 Do you have any understanding,
7 other than the words that are in this paragraph,
8 as to what Johnson & Johnson is required to fund,
9 if anything, under the funding agreement?

10 A. I would defer the funding
11 agreement. This is, you know, a description of
12 the funding agreement. If the question is the
13 funding agreement, I would defer to the funding
14 agreement.

15 Q. I do understand that and I will
16 stipulate that the funding agreement says what it
17 says but I am asking what your understanding is.

18 So my question is do you have any
19 understanding as to what Johnson & Johnson, under
20 the funding agreement, is required to fund?

21 MR. JONES: Object as asked and
22 answered.

23 THE WITNESS: It's laid out in this
24 document right here as to what Johnson &

1 Johnson and new JJCI is required to fund.

2 BY MR. SILVERSTEIN:

3 Q. Just so that we're clear and we can
4 move on, your understanding of what Johnson &
5 Johnson is required to fund under the funding
6 agreement is limited to how you've expressed it
7 and what you've expressed in paragraph 27; is that
8 correct?

9 A. Again, I would defer to the funding
10 agreement for all its terms. This is just sort of
11 a synopsis of what it is. If you want to go to
12 the funding agreement and point to the language in
13 the funding agreement, I'm happy to do that. I
14 would defer to what's in the funding agreement.
15 This is a synopsis of what's contained in there
16 and I would leave it at that.

17 Q. I understand but you're the
18 representative of the debtor who has been put
19 forward for the first day hearings and for this
20 preliminary junction motion. I'm trying to
21 discern what your understanding is of Johnson &
22 Johnson's responsibilities under the funding
23 agreement. I agree that the funding agreement
24 says what it says. I'm trying to understand what

1 you understand it to mean.

2 A. So what I would say is this is a
3 synopsis of what I think the salient portions of
4 the funding agreement are. There may be some
5 discrepancies and I would defer to the funding
6 agreement but, again, I would have to look at the
7 funding agreement for the -- any nuances that may
8 be lost here.

9 Q. Okay. Let me ask this: in terms of
10 prong A, where you wrote that the funding
11 agreement requires new JJCI and J&J to, up to the
12 value of new JJCI, fund amounts necessary to
13 satisfy the debtor's talc-related liabilities at
14 any time when there is no bankruptcy case, is it
15 your understanding that such talc-related
16 liabilities would include indemnity liabilities?

17 MR. JONES: Objection as asked and
18 answered. He's told you what his
19 understanding is premised on and what it
20 is.

21 MR. SILVERSTEIN: Please don't say
22 anything more than objection, asked and
23 answered.

24 MR. JONES: Objection, asked and

1 answered. This is becoming harassing,
2 Adam, is the point. I'm suggesting to you
3 that asking him again and again to tell
4 you again where he finds the meaning is
5 harassing so let's -- I'll say no more
6 about it.

7 MR. SILVERSTEIN: Okay, you have
8 now said it and I'm going to ask it one
9 more time and I'm going to stipulate there
10 is a standing objection that this question
11 has been asked and answered, I'm going to
12 ask it anyway.

13 BY MR. SILVERSTEIN:

14 Q. In the sentence that I just read
15 with respect to the portion that says that Johnson
16 & Johnson -- withdrawn. I'm going to read it
17 again.

18 The funding agreement requires new
19 JJCI and J&J to, up to the full value of new JJCI,
20 fund amounts necessary to satisfy the debtor's
21 talc-related liabilities at any time when there is
22 no bankruptcy case.

23 In that context did you understand
24 and do you understand whether talc-related

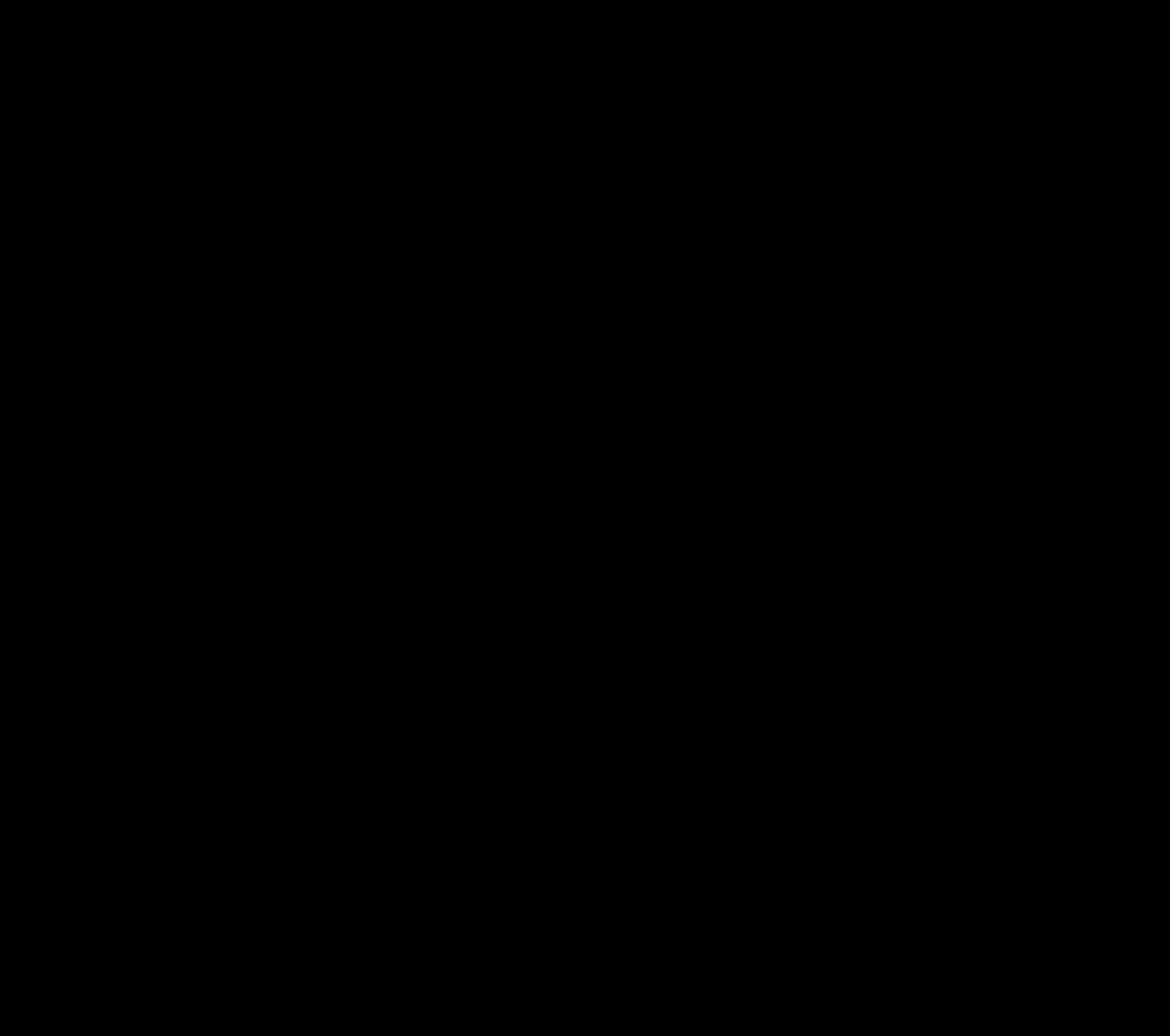
1 liabilities include indemnity liabilities relating
2 to talc?

3 A. I would have to go back and see
4 whether indemnities are talc-related liabilities.
5 I would defer to the agreement.

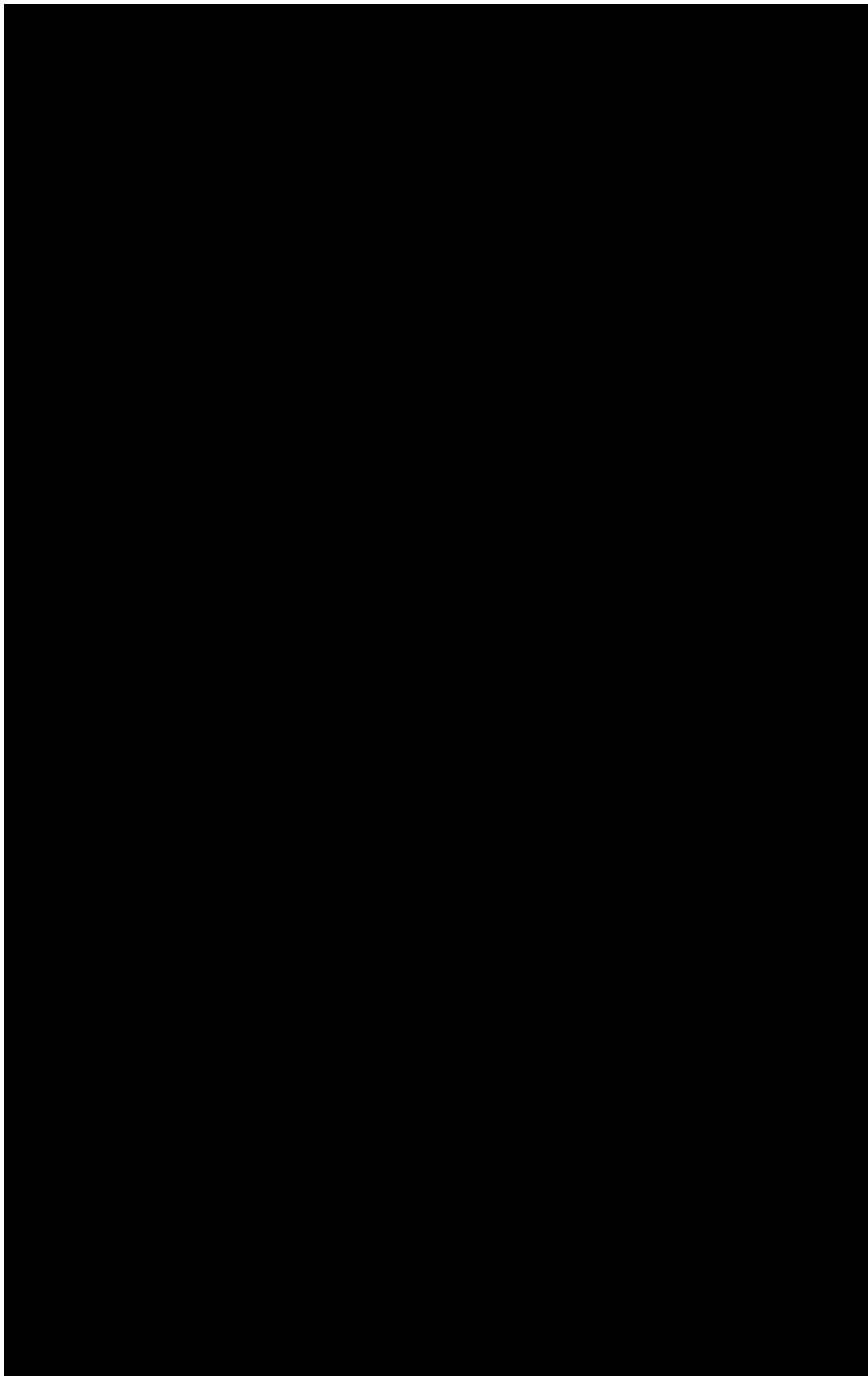
6 Sitting here right now I would
7 think that they are talc-related liabilities, but,
8 again, I would defer to the actual agreement and
9 definitions therein.

10 Q. Okay. What is your -- withdrawn.

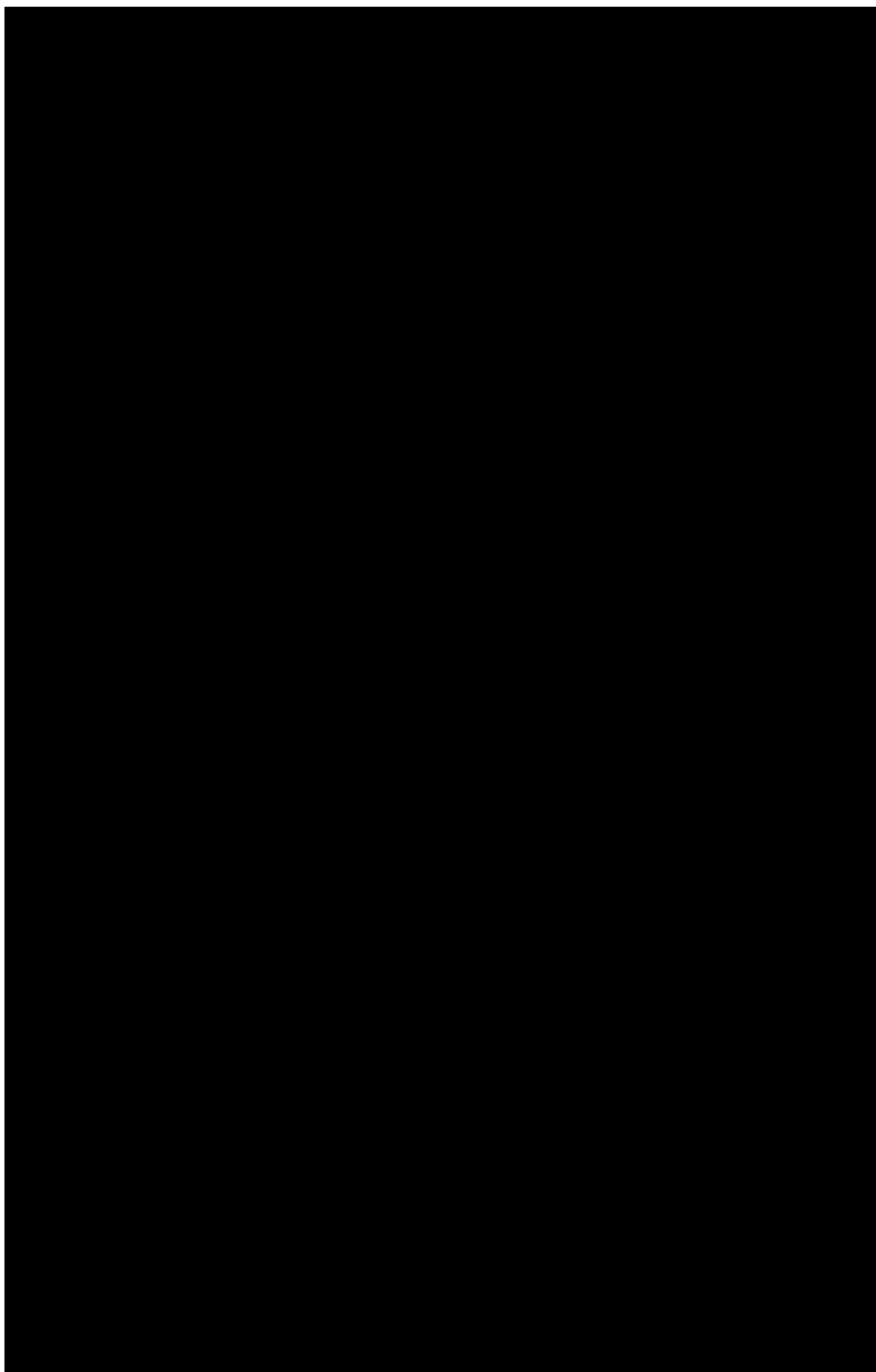
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6 Q. Okay. And do you have knowledge of
7 information of the value of old JJCI immediately
8 before -- withdrawn. I don't want to be in any
9 way argumentative.

10 Are you -- do you have any
11 knowledge or information about the value of old
12 JJCI immediately before the devisive merger in
13 October of 2021?

14 A. No, I do not.

15 Q. Have you ever seen any documents
16 ascribing a value to Johnson & Johnson Consumer,
17 Inc. prior to the series of transactions that
18 occurred in October of 2021?

19 MR. JONES: Object to form.

20 THE WITNESS: Yes, but not fair
21 market value.

22 BY MR. SILVERSTEIN:

23 Q. And what documents have you seen?

24 A. There's a stipulation that we've

1 entered into that discusses the net worth number
2 of old JJCI and that number, of course, is just
3 assets liability type calculation, it's not a fair
4 market value of the business so I have seen that
5 valuation.

6 Q. Okay. So that we don't have to
7 talk theoretically, I'm going to show you one such
8 stipulation. We're skipping ahead, it's already
9 marked as Exhibit 16, I'm going to share it in the
10 chat. And I'm going to now share it on the
11 screen. This is a publicly filed document
12 entitled Stipulation, filed in a lawsuit entitled
13 Ellen Kleiner and Yury Kleiner versus Johnson &
14 Johnson and Johnson & Johnson Consumer, Inc.

15 Have you seen this document before?

16 A. Not this document but a document
17 similar to this.

18 Q. Okay. And have you approved the
19 filing of documents similar to this in talc
20 litigations?

21 A. Yes.

22 Q. Okay. And am I understanding you
23 correctly that in the stipulations that you've
24 approved, the use of the word net worth reflects

1 the book value of the entity to which it refers?

2 MR. JONES: Form.

3 THE WITNESS: Yes, this stipulation

4 comes from work that was done in the first

5 New Jersey case and there is a deposition

6 of Mark Schneider that goes through the

7 calculation of how this is calculated.

8 It's not a fair market value calculation.

9 It is a calculation just based upon assets

10 and liabilities.

11 BY MR. SILVERSTEIN:

12 Q. Are you familiar with the term book
13 value?

14 A. I've heard the term, I think
15 that's -- I just don't -- I'm not comfortable
16 affirming, you know, what book value might be but
17 I believe that's correct, but it's a basis of
18 just, you know, what a company owns and what it
19 owes.

20 Q. Okay. So is it fair though that
21 when you approved the filing of stipulations
22 referring to a net worth for a particular company,
23 you had in your mind net worth being the
24 difference between the total assets of the company

1 on the books and the total liability of the
2 company on the books?

3 MR. JONES: Objection.

4 THE WITNESS: This is a
5 stipulation, this is what plaintiffs
6 agreed to would be the definition of net
7 worth. So as far as I know, there's no
8 standard definition of net worth. We
9 spent a lot of time with different
10 plaintiffs' counsel, trying to come up
11 with a value because, again, fair market
12 value is a very difficult -- difficult
13 concept to try to get and so this net
14 worth number was a stipulated number and
15 way of getting it that we agreed to with
16 various plaintiffs' attorneys.

17 BY MR. SILVERSTEIN:

18 Q. Have you ever at any point in time
19 during the course of your employment at Johnson &
20 Johnson seen any documents ascribing a fair market
21 value to Johnson & Johnson Consumer, Inc.?

22 A. I don't believe I've seen that,
23 that number, no.

24 Q. Other than Mr. Lisman, have you

1 spoken with any other finance person about the
2 value of new JJCI?

3 A. I think there was -- so when we
4 spoke with Mr. Lisman there were other finance
5 folks I believe on the call and the consensus was
6 that net worth -- that fair market value would be
7 fair greater than book value or assets minus
8 liabilities number.

9 Q. I'm sorry, there were --

10 A. There were other --

11 Q. The consensus among who?

12 A. Other finance people, so there were
13 other finance people on the call, I just can't
14 recall who they were or their names.

15 Q. I'm sorry, when was the call?

16 A. Earlier this week.

17 Q. When was the first time that you
18 heard anyone discuss a 60 billion-dollar valuation
19 in connection with the value of new JJCI?

20 MR. JONES: Object to form.

21 THE WITNESS: I don't recall. It
22 was -- I don't recall the first time this
23 topic was discussed.

24 BY MR. SILVERSTEIN:

1 Q. Was it before or after the filing
2 of the bankruptcy?

3 A. It was after the filing of the
4 bankruptcy.

5 Q. Okay. So when the funding
6 agreement was executed, by that point in time you
7 had not heard anyone mention a 60 billion-dollar
8 valuation in connection with new JJCI?

9 A. No, because at the time -- the
10 funding agreement was set out to put -- to put
11 claimants in a better position than they were and
12 in order to put them in a better position,
13 basically, we wanted to have a funding agreement
14 that at least replaced what the value of JJCI was
15 and then, you know, there were other additions,
16 like having a Johnson & Johnson guarantee. So
17 they're in a better position than they were and
18 the way that you get there, it's a relative
19 position of what the value of the funding
20 agreement is and so if it's pegged to the value of
21 new JJCI, then by definition, you know, the
22 claimants are in a better position.

23 So you don't actually have to do
24 the valuation to understand that the way it works

1 puts claimants in a better position, all right.
2 So we didn't do the calculation but we did know
3 that by doing it this way, by having this
4 calculation, it put the claimant in a better
5 position than they were.

6 Q. Okay. Let me skip ahead. What are
7 your responsibilities as the chief legal officer
8 at LTL, in general?

9 A. So my primary responsibility is to
10 effect a equitable and efficient resolution to the
11 talc liability, so my principal objective is to
12 try to settle this liability fully, fairly,
13 finally.

14 Q. Okay. Do you have any
15 responsibilities within the Johnson & Johnson
16 enterprise meaning, you know, all of the
17 companies, outside of your responsibilities as
18 chief legal officer of LTL?

19 A. No, I resigned all those posts and
20 my only duty now is the fair and equitable
21 resolution to this, talc liabilities.

22 Q. Has Mr. White been seconded to LTL?

23 A. He has not been seconded to LTL.
24 In fact, he has taken over my duties at J&J.

1 Q. Who has been seconded to LTL
2 besides yourself?

3 A. So far it's myself and Bob
4 Wuesthoff and Rich Dickinson, but we do have an
5 agreement, a services agreement. We have been
6 looking for further support so we anticipate that
7 others may be seconded or at least part-time
8 allocated to us.

9 Q. Okay. And I'll give you the
10 opportunity to give me this answer, what -- if the
11 MDL and other litigation continue against Johnson
12 & Johnson, how would your efforts to reorganize
13 the debtor be impacted?

14 A. It would be severely impacted.

15 Q. Okay. So if you have no
16 responsibilities as to the bankruptcy, how is that
17 so?

18 A. Because the fact that the
19 litigation continues against Johnson & Johnson
20 creates a situation where, frankly, the exact
21 claims that are being brought against LTL or that
22 LTL has is being litigated, so any I think we -- I
23 think I'm going to be forced to have to deal with
24 that but, secondly, it defeats the whole purpose

1 of a bankruptcy where you're looking for fair and
2 equal treatment among claimants, where you have
3 some claimants now in the tort system litigating
4 the very same claims they have against LTL and
5 getting, you know, differing results.

6 So I think as it's laid out in my
7 statement, first of all, you know, old JJCI has
8 been winning most of the cases but every once in a
9 while, you know, a plaintiff's verdict will appear
10 that is an outlier. So the whole issue of having
11 this sort of unfair treatment of claimants
12 continues on and all of that will be detrimental
13 to my purpose of trying to come up with a fair,
14 equitable, efficient resolution to the entire
15 litigation. So I believe it's untenable to have
16 all this other litigation going on while trying
17 to, at the same time, come up with a so-called
18 global, you know, solution to this issue.

19 Q. Is there any other impact that you
20 have in mind that would deter the debtor from its
21 reorganization efforts if litigation against
22 Johnson & Johnson continued, other than what
23 you've just described?

24 A. I mean, I think what I described

1 encompasses a lot. So, for example, the res
2 judicata effect, you know, the effect of allowing
3 certain claimants to go around the bankruptcy
4 system to try to fashion a claim that they think
5 survives bankruptcy.

6 For example, there was a recently
7 filed complaint just against J&J that alleges the
8 exact same things but just doesn't mention old
9 JJCI or LTL.

10 There's also the example of a judge
11 in South Carolina who has denied our motion to
12 limit the case against J&J and her view is that
13 everything is the same in that she is not going to
14 allow us to limit any evidence with respect to old
15 JJCI or change anything about how these cases were
16 tried previously. So, you know, with those
17 situations going on right now, it is -- it is
18 impossible for us to reorganize in a manner that
19 would -- that's necessary to deal with this --
20 these issues.

21 Q. And so you would agree that for
22 those reasons, it is preferable for the claims
23 against Imerys to have been resolved in the Imerys
24 bankruptcy, as opposed to in the MDL litigation;

1 is that right?

2 A. I'm not sure where the Imerys
3 situation comes up and how you're equating that.
4 What I'm saying is because of these issues, there
5 needs to be a stay against -- for the benefit of
6 Johnson & Johnson and retailers, for example, or
7 else the very same claims that are being litigated
8 against -- against them are going to effect LTL.

9 So I'm not sure where you're going
10 with Imerys.

11 Q. Okay. Are you aware of any
12 payments by -- if I misstated it, I apologize, the
13 name came up yesterday, is it Middlesex Insurance,
14 the captive insurance company?

15 A. Yes, Middlesex Insurance Company.

16 Q. Okay. Are you aware of any
17 payments by Middlesex Insurance Company to any
18 third parties on talc claims?

19 A. Yes, Middlesex is the first line of
20 insurance and has been paying claims -- expenses
21 and I believe some settlements, although I'm not
22 sure when the actual settlements happened, whether
23 the settlements are exhausted by that time, but,
24 certainly, it has paid expenses related to the

1 talc litigation.

2 Q. Do you have any role with
3 Middlesex?

4 A. I do.

5 Q. Or did you have any role?

6 A. I did, I did.

7 Q. What was your role?

8 A. So I handled -- I'm the principal
9 attorney for insurance coverage litigation and I
10 am the attorney that advises Middlesex as a
11 subsidiary.

12 Q. Do you still do any work with
13 Middlesex?

14 A. Not since I changed positions.

15 Q. Okay. And what was -- I understood
16 from Mr. Lisman yesterday --

17 A. Although, you know, the
18 Middlesex -- the insurance liability is also LTL's
19 liability so I don't do it in the capacity as I
20 did before but as an LTL liability, I would still
21 be responsible for the insurance coverage issues.

22 Q. I understood from Mr. Lisman
23 yesterday that the Middlesex insurance coverage
24 was exhausted in the fourth quarter of 2018.

1 Is that your understanding?

2 A. That is my understanding.

3 Q. Okay. And what was the coverage
4 that was exhausted at that point?

5 A. Middlesex had an underlying layer
6 of \$100 million and an excess layer of
7 \$200 million for a total layer of \$300 million.

8 Q. Okay. And has the debtor produced
9 the copies of the Middlesex policies?

10 A. I believe it has. My understanding
11 was that the insurance policies that we had were
12 produced but I believe we have but, you know,
13 that's my understanding. I have not reviewed the
14 production to confirm that.

15 Q. Okay. And where are records
16 relating to Middlesex located?

17 A. Middlesex, in the risk department
18 at Johnson & Johnson in New Brunswick, but I think
19 they're all produced in underlying litigation.

20 Q. And to your knowledge is any --
21 withdrawn.

22 Do you have any knowledge of any
23 information about talc that is provided to PWC?

24 A. I have been involved in the process

1 of -- it would be part of the reserving process
2 where we talked to PWC.

3 Q. Do you have any understanding as to
4 whether any of Middlesex's records have been
5 provided to PWC?

6 A. Middlesex has its own auditing done
7 by a firm in -- actually, it may be both PWC and a
8 firm in Vermont. I'd have to check to see what
9 they've provided to PWC. PWC, I know that they
10 are involved in Middlesex review but they're not
11 the auditors for Middlesex. Middlesex has its own
12 auditors in Vermont. It's a Vermont captive.

13 Q. Does Middlesex, to your knowledge,
14 make regulatory filings in Vermont?

15 A. It does.

16 MR. SILVERSTEIN: Okay. Let's take
17 a short break. I'm going to look through
18 my notes and I will have a little bit more
19 cleanup but we're almost done, and I
20 appreciate all of your time.

21 MR. JONES: Thanks. By my clock
22 you've got about ten or 12 minutes, Adam.

23 MR. SATTERLEY: I'm going to have
24 about three or four minutes of questions.

1 MR. SILVERSTEIN: I will make sure
2 that I leave Mr. Satterley that time.

3 MR. JONES: Okay. You guys can arm
4 wrestle while we're off the record. We'll
5 come back in five.

6 (Brief recess taken at 5:19 p.m.)

7 (Deposition resumes at 5:25 p.m.)

8 BY MR. SILVERSTEIN:

9 Q. We have so much to ask you,
10 Mr. Kim, but we will abide by what we said we
11 would.

12 You indicated you were seconded to
13 LTL. Where do you do your work for LTL from?

14 A. My office has stayed the same at
15 One Johnson & Johnson Plaza.

16 Q. Okay. And is there anything
17 different about your office now that you're
18 seconded to LTL?

19 A. Less files, fewer files I guess.

20 Q. Okay. Is there any -- is your
21 office the dedicated LTL office space at the
22 moment?

23 A. No, it's not. The LTL offices are
24 across the street, at a building called Johnson

1 Hall, that's where Rich Dickinson's office is.

2 Q. Okay. So the dedicated LTL space
3 is at Johnson Hall?

4 A. Yes.

5 Q. And that's where Rich Dickinson is
6 located?

7 A. Correct.

8 Q. And is that -- I've never been
9 there. If I walked in, would I know where to go
10 for LTL?

11 A. I don't think that's -- no, I don't
12 believe there's a sign or anything up for that.

13 Q. If I wanted to speak to somebody
14 about LTL business and I went to that address, how
15 would I know where to go within the building?

16 A. So that just happened last week,
17 there was a representative from Serberus that LTL
18 Management wanted to talk to and so he wound up in
19 the cafeteria at One Johnson Hall and they had a
20 business meeting there.

21 Q. Is that the LTL conference room at
22 the moment?

23 A. It's the cafeteria that has -- so
24 it's open space, so, you know, like a lot of

1 offices, there are areas that is hotelling,
2 there's no dedicated offices for people and you
3 squat in places.

4 Q. Just one last matter and then I'm
5 going to turn you over to Mr. Satterley.

6 Prior to the Imerys bankruptcy
7 filing did you have any experience with any
8 bankruptcy matters in your professional capacity?

9 A. Yes.

10 Q. Okay. Just can you quickly tell me
11 the cases, you don't have to give me a full
12 description.

13 A. So I was involved in -- my first
14 bankruptcy case was In Re: Braniff, the Braniff
15 bankruptcy. I was involved in the Continental
16 bankruptcy. I was involved in the Harris
17 bankruptcy in New Orleans. I was involved in
18 the -- one of the savings and loan bankruptcies,
19 Oaktree -- it was the savings and loan that owned
20 the PGA West in La Quinta, I was involved in that
21 bankruptcy.

22 Q. And these were all prior to your
23 employment at Johnson & Johnson?

24 A. Yes, yes. I did a lot of

1 bankruptcy work at Simpson.

2 MR. SILVERSTEIN: Okay. Mr. Kim, I
3 really do appreciate the time you spent
4 with us. Mr. Jones, I appreciate your
5 general professionalism and,
6 Mr. Satterley, I'm going to turn it over
7 to you.

8 MR. SATTERLEY: Thank you.

9 BY MR. SATTERLEY:

10 Q. Mr. Kim, hopefully I will have less
11 than ten minutes for today and we'll meet and
12 confer regarding the documents we requested, if
13 need be, for later questioning.

14 I just want to ask you there were
15 some documents produced by LTL recently addressed
16 to you from Travelers wherein there's discussion
17 of Johnson & Johnson talc claims.

18 Are you familiar with those
19 letters?

20 A. You would have to show me.

21 Q. I'll show you one as an example and
22 I'm not going to dig into the details, just
23 because we don't have time. Let me see if I
24 can --

1 A. I've been working with Travelers
2 for a while. I'm not sure which letters you are
3 talking about.

4 Q. So this -- is that -- can you see
5 it?

6 A. No.

7 MR. JONES: Can't make it out,
8 whatever it is, Joe.

9 MR. SATTERLEY: You couldn't see
10 the letter?

11 MR. JONES: No, it just was a gray
12 base. We're looking at you now.

13 MR. SATTERLEY: Let me see. I'm
14 going to close out my -- I'm going chew up
15 all my time on technical problems here.
16 Let me reboot the visualizer there. Here
17 we go. Let me try this way.

18 BY MR. SATTERLEY:

19 Q. So this is -- let me go all the way
20 to the top here, from Travelers addressed to you
21 and Thomas Ladd, it's confidential and got Bates
22 number beginning 12447.

23 Do you see that?

24 A. I do.

1 Q. And it says Johnson & Johnson talc
2 claims.

3 When you submitted talc claims to
4 Travelers, you did on behalf of Johnson & Johnson,
5 correct?

6 A. I think we did it on behalf of
7 both. I would have to look at both the actual
8 claims that we submitted.

9 Q. So there would be letters written
10 like, for example, right here it says, "During
11 August 13 conference call Mr. Murdica and Mr. Kim
12 were unable to answer basic questions about how
13 J&J's proposed settlements are being valued," and
14 goes on to talk about that.

15 My question is with regards to
16 Travelers, Travelers was asserting that J&J was
17 not giving them adequate information to make
18 claims decisions, correct?

19 A. I would say, first, this is a
20 perfect example of imprecise use of J&J. When
21 we're dealing with Travelers, Travelers like to
22 think of it as one big enterprise, so they refer
23 to the J&J enterprise, and so I would start with
24 that, and now I've forgotten what your specific

1 question was on that line.

2 MR. SATTERLEY: Move to strike
3 everything that was nonresponsive.

4 BY MR. SATTERLEY:

5 Q. My question was Travelers was
6 complaining to Johnson & Johnson that Johnson &
7 Johnson was not giving them sufficient information
8 for them to evaluate the claims, correct?

9 A. I would -- the letter speaks for
10 itself. I think there's a long reservation of
11 rights letter that they already sent us that lists
12 all their bases for denying coverage but I would
13 refer to their specific letter.

14 Q. Well, there was several letters
15 produced from Travelers addressed to you regarding
16 their view that Johnson & Johnson wasn't giving
17 them sufficient information to evaluate claims,
18 correct?

19 A. I would say that they were
20 complaining about the insureds -- all the insureds
21 in a -- what they would consider insufficient
22 information.

23 Q. And they also told you that it was
24 their view, Travelers' view, that J&J could not

1 receive a channeling injunction with regards to
2 the Imerys bankruptcy, true?

3 A. I would have to see the context of
4 that.

5 Q. They advised you that a claim -- a
6 claim against Imerys is not derivative of J&J,
7 correct?

8 A. Again, I would have to look at
9 their legal assertions and, frankly, we disagreed
10 with virtually everything Travelers said at all
11 times so it would not be surprising for me that
12 they would make incorrect assertions in a letter
13 where they're denying coverage.

14 MR. SATTERLEY: I'll mark an
15 exhibit, I think I left off on Exhibit 4
16 and Adam has picked up on Exhibit 5, so
17 that letter I showed you I'll mark as
18 Exhibit 4. Adam what was your last
19 exhibit number?

20 (Document marked for identification
21 as Kim Deposition Exhibit No. 4.)

22 MR. SILVERSTEIN: There's a couple
23 of gaps but the last one I just showed
24 was -- Exhibit 15 is available.

1 MR. SATTERLEY: Fifteen?

2 MR. SILVERSTEIN: Yes.

3 MR. SATTERLEY: I'll pick up at 15
4 if I can get this thing to work here. I
5 don't think it's going to work.

6 MR. JONES: Joe, you've got about
7 one minute in any event.

8 MR. SATTERLEY: Okay.

9 BY MR. SATTERLEY:

10 Q. Well, you said, Mr. Kim that there
11 are more defense verdicts than there are plaintiff
12 verdicts; in fact, there have been 17 plaintiffs
13 verdicts and 17 defense verdicts, true?

14 A. I would have to look through my
15 chart but my understanding is that's -- I'm not
16 sure how you are counting that. I have to go
17 through and look at it.

18 Q. LTL has produced a list of the
19 various case numbers, the verdicts and the status,
20 you're familiar with that list?

21 A. I am. I would have to look at that
22 list.

23 Q. Who put that list together?

24 A. That was with the help of our

1 outside counsel.

2 Q. And that list has not been used at
3 all to evaluate the value of cases in terms of a
4 total number that should be put in a trust?

5 MR. JONES: Object to form.

6 THE WITNESS: That list is
7 incomplete and doesn't include all the
8 no-pays that we've had. That's just a
9 list of verdicts. And, again, I think
10 I've testified, we haven't sat down and
11 done a, you know, an analysis yet.

12 MR. SATTERLEY: Move to strike
13 portions that are nonresponsive.

14 BY MR. SATTERLEY:

15 Q. My question is that list that has
16 the verdicts hasn't been used to do any type of
17 evaluation or calculations, true?

18 A. It's used for calculations, it's
19 used for -- you know, we use it, that list
20 internally, you know, but there's not been a
21 calculation of total liability.

22 Q. Final question, is the 10-K from
23 December 31st, 1978, that was produced as
24 LTL019235, and in that 10-K there is a listing of

1 legal proceedings, true?

2 A. I'd have to look at it.

3 Q. Have you looked at it?

4 A. Not recently.

5 Q. Nowhere in the 1978 10-K is there
6 any legal proceedings involving talc whatsoever,
7 correct?

8 A. Again, I'd refer to the document.

9 Q. You don't know?

10 A. I just don't know. I don't have it
11 in front of me.

12 MR. SATTERLEY: I guess I'm out of
13 time, Mr. Jones, so why don't you let me
14 know tomorrow morning -- before tomorrow
15 morning or tomorrow morning by 10:00
16 Eastern time about the document requests.

17 MR. JONES: I'm going to do that,
18 as I said I would. Thank you, Joe.

19 Mr. Kim, I just have one or two
20 questions quickly.

21 BY MR. JONES:

22 Q. Real quickly I think
23 Mr. Silverstein asked you questions about your
24 testimony at the last hearing; you recall that?

1 A. Yes.

2 Q. And I thought you gave an answer
3 you thought it was one-sided and perhaps
4 misleading. I want to give you a chance to tell
5 me an answer to this question.

6 Did you testify accurately last
7 Friday?

8 A. Yes. I thought the question was
9 misleading. I'm sorry. The question was
10 misleading.

11 Q. Thank you. Have you testified
12 accurately?

13 A. Yes, I have.

14 Q. When Mr. Satterley asked you a few
15 questions earlier in the day, he used the word
16 harm in connection with I think mesothelioma
17 claimants.

18 And my question to you is do you
19 have a view about whether the bankruptcy filing
20 itself has imposed any harm on anyone?

21 A. No, I don't believe the bankruptcy
22 filing has imposed any harm on anyone.

23 MR. JONES: That's all I have.

24 Thank you, sir.

1 BY MR. SATTERLEY:

2 Q. One follow-up question.

3 So the questions that your
4 attorneys asked you last Friday were one-sided you
5 said?

6 A. No, Mr. Satterley. I think you
7 understood what my complaint was.

8 MR. SATTERLEY: We'll see you next
9 week in North Carolina. Thank you for
10 your time today.

11 MR. JONES: Thanks everybody.

12 MR. SILVERSTEIN: Thank you.

13 (Witness excused.)

14 (Deposition concluded 5:39 p.m.)

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1 C E R T I F I C A T I O N

2 I, MARGARET M. REIHL, a
3 Registered Professional Reporter,
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5 Court Reporter, Certified LiveNote
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7 foregoing is a true and accurate
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12 forth.

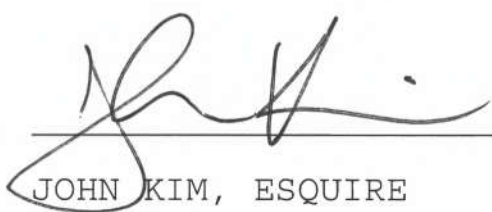
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15 attorney nor counsel of any of the parties
16 to this action, and that I am neither a
17 relative nor employee of such attorney or
18 counsel, and that I am not financially
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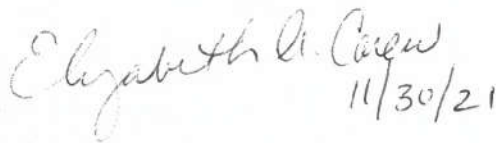
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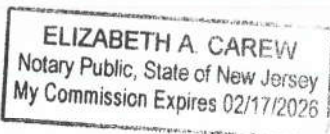
ACKNOWLEDGMENT OF DEPONENT

I, JOHN KIM, ESQUIRE, do hereby
certify that I have read the foregoing
pages and that the same is a correct
transcription of the answers given by me
to the questions therein propounded,
except for the corrections or changes in
form or substance, if any, noted in the
attached Errata Sheet.


JOHN KIM, ESQUIRE

11/30/21
DATE


11/30/21



ERRATA

Page Line

109 3 change "didn't" to "did" (TR)

162 13 change "seen" to "saw" (TR)

172 1 change "bolus" to "bulk" (TR)

186 24 change "for to indemnity" to
"for indemnifying" (TR)

202 11 change "Denise Houghton John" to
"Denise Houghton and John" (TR)

213 3 change "make sense" to "not make sense" (TR)

221 17 change "get sued as well." to
"if it gets sued as well." (TR)

252 7 change "fair greater" to "far greater" (TR)

TR = Transcription Error